

01Q5car1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 -----x

4 E. JEAN CARROLL,

5 Plaintiff,

6 v.

7 20 CV 7311 (LAK)

8 DONALD J. TRUMP, in his
9 personal capacity,

10 Defendant.

11 TRIAL

12 -----x
13 New York, N.Y.
14 January 26, 2024
15 9:38 a.m.

16 Before:

17 HON. LEWIS A. KAPLAN,

18 District Judge

19 APPEARANCES

20 KAPLAN HECKER & FINK LLP
21 Attorneys for Plaintiff
22 BY: ROBERTA ANN KAPLAN
23 SHAWN G. CROWLEY
24 MATTHEW J. CRAIG

25 HABBA MADAIO & ASSOCIATES LLP
26 Attorneys for Defendant
27 BY: ALINA HABBA
28 MICHAEL T. MADAIO
29 PETER SWIFT
30 PETER GABRA

01Q5car1

1

2 (Trial resumed; jury not present)

3

THE COURT: I notice that the defense is not present.

4

They are coming.

5

THE MARSHAL: Counsel for Trump is getting screened.

6

THE COURT: Let the record reflect that Mr. Madaio is
7 in the courtroom. Ms. Habba has entered. It is now 20 minutes
8 to 10:00.

9

MS. HABBA: I'm sorry, your Honor. I couldn't hear
10 you.

11

THE COURT: I said you had just entered, it is now 20
12 minutes to 10:00.

13

At the conclusion of the charging conference yesterday
14 afternoon there were a couple of issues that I said I would
15 reflect on and advise counsel of my intentions and that was
16 done by e-mail last night, a copy of which will be marked as
17 Court Exhibit C.

18

Ms. Habba, is your client intending to be here this
19 morning?

20

MS. HABBA: My client is here, your Honor.

21

THE COURT: Well, he is not in the courtroom.

22

MS. HABBA: No. I can grab him.

23

THE COURT: Well, I see he is now entering.

24

MS. HABBA: He is in the courtroom now.

25

THE COURT: Before we bring the jury in, let me just

01Q5car1

1 be clear, we will have closing arguments. During closing
2 arguments no one in the courtroom is to say anything except
3 that opposing counsel, if there is an objection, can say
4 objection, and if I think it appropriate, we will have a side
5 bar. There are to be no interruptions by anybody else, no
6 audible comments by anybody else, and when I charge the jury
7 later, that rule applies to everyone in the courtroom,
8 including counsel. Counsel will have an opportunity at the
9 conclusion of my instructions to make any objections to the
10 charge, as given, that were not ruled on yesterday, should
11 there be any.

12 Let's get the jury.

13 MS. CROWLEY: Judge, we just have one issue. I
14 apologize.

15 We exchanged our slide decks this morning in advance
16 of court. There are a couple issues with the defendant's
17 presentation that we attempted to work out. We don't have a
18 resolution. The first is basically they're showing the jury
19 things that are not in evidence. There is a slide that
20 contains about a dozen tweets, only three of which were
21 actually received in evidence. That slide actually appears
22 three times in the presentation.

23 There is also a reference in the presentation to The
24 Cut article appearing at 12:14 p.m. That's not in evidence.
25 The only reference to 12:14 p.m. came from Ms. Habba, which is

01Q5car1

1 at 216 of the transcript, where she asked the question: So, if
2 I represented to you that it was released at 12:14, would that
3 sound right? And your Honor sustained an objection to that.

4 THE COURT: First of all, Ms. Habba, are Ms. Crowley's
5 statements correct?

6 MR. MADAIO: Your Honor, if I may?

7 THE COURT: Yes.

8 MR. MADAIO: The full context of the conversation, she
9 was asked when The Cut article was released she said sometime
10 after noon. Then Ms. Habba asked her about 12:14 and she did
11 say, "yes" so we --

12 THE COURT: Give me the transcript reference, please.

13 MS. CROWLEY: It is 214:24 to 218:4. I believe the
14 question was: So, if I represented it was released at 12:14,
15 would that sound --

16 THE COURT: You read it before. I just want to find
17 it. What was the date of the transcript?

18 MS. CROWLEY: Day two.

19 THE COURT: That would be January 17. 216, line?

20 MS. CROWLEY: The question is 216, line 2.

21 THE COURT: Look. The witness said: "I'm glad to
22 give the date, it could be," in response to 12:14. If this
23 becomes an issue, the defense can answer it on defense's
24 argument. I'm not going to rule that out.

25 Now what about the other one, Mr. Madaio.

01Q5car1

1 MR. MADAIO: Your Honor, with regard to the tweets,
2 these were the defense had attempted to enter many of these
3 tweets in the five-hour gap between noon and 5:17 p.m. Counsel
4 continuously objected to it as cumulative and there is also a
5 stipulation on the record by Ms. Kaplan that there were many
6 tweets during that period. So we have a slide that contains, I
7 believe, four tweets that were in evidence. The rest of them
8 are referenced on the slide, they're blacked out, you can't see
9 them, they're blurred out, but it is more to show that there is
10 a stipulation to show there are many tweets in the time period
11 and there were --

12 THE COURT: The ones that you were trying to enter and
13 did not succeed in entering are not in evidence and they're not
14 going to be in the slide.

15 MR. MADAIO: Well, your Honor --

16 THE COURT: You say they're blacked out. Now show me
17 the slide.

18 MR. MADAIO: Sure. Again, your Honor, there was a
19 stipulation by Ms. Kaplan on the record that there were many
20 tweets during that time.

21 THE COURT: Maybe you should have a slide that said
22 that.

23 MR. MADAIO: That was part of the resolution of the
24 issue, your Honor, why the tweets were not openly admitted.

25 THE COURT: Could I have a legible copy of this or

01Q5car1

1 project it? This is entirely illegible.

2 MR. MADAIO: Your Honor, that is the point, is that
3 those tweets are not legible and not intended to be legible.

4 THE COURT: I want to see what you propose to show to
5 the jury, not a Xerox copy of something that I can't read.

6 MR. MADAIO: We can pull it up, your Honor.

7 MS. CROWLEY: Just for the record, on page 290, line 1
8 through 2 of the transcript, Ms. Kaplan said: We'll stipulate
9 that there were nasty tweets sent to Ms. Carroll before
10 5:17 p.m. on June 21st.

11 THE COURT: Is that what you are referring to,
12 Mr. Madaio?

13 MR. MADAIO: I'm sorry. If Ms. Crowley can repeat? I
14 was unable to hear.

15 MS. CROWLEY: We will stipulate there were nasty
16 tweets sent to Ms. Carroll before 5:17 p.m.

17 MR. MADAIO: Yes, your Honor; that's exactly right.

18 THE COURT: Now let me see the slide, please.

19 MR. MADAIO: Your Honor, to be clear, these tweets are
20 included just to show the volume, not the substance, that's why
21 they've been blurred out.

22 THE COURT: That's the whole point. They're totally
23 irrelevant. They're totally irrelevant unless they're in
24 evidence. You are not using the slide.

25 MR. MADAIO: Your Honor, that was the point of the

01Q5car1

1 stipulation, is that there was many tweets.

2 THE COURT: I don't know what was in your head and I
3 don't know what was in their head. What I know is what
4 Ms. Carroll said, which was taken down. You are perfectly
5 welcome to say she stipulated there were many whatever it is
6 she said exactly. You are not going to use a slide that
7 purports to represent how many and what they were about.

8 MR. MADAIO: We are not trying to enter them for what
9 they were about.

10 THE COURT: Excuse me. You are not using that slide.
11 Period.

12 MR. MADAIO: Thank you, your Honor.

13 MS. HABBA: No. No. Sorry, your Honor. You can't
14 see the tweets. Your Honor is --

15 THE COURT: Ms. Habba.

16 MS. HABBA: I'm sorry, your Honor. I have to make a
17 record.

18 THE COURT: Ms. Habba, you are on the verge of
19 spending some time in the lockup. Now sit down.

20 MS. HABBA: Shocking.

21 THE COURT: OK. Bring in the jury.

22 (Continued on next page)

01Q5car1

Summation - Ms. Kaplan

1 (Jury present)

2 THE COURT: Good morning, folks. I'm sorry we are
3 getting a little bit of a late start but let me tell you how
4 the day is going to go. We are going to hear closing arguments
5 from both sides. I don't know exactly how long it is going to
6 go but somewhere between two and three hours in total, is what
7 I imagine.

8 Now, depending on exactly what time it is, my
9 inclination here is to -- with a break sometime during the
10 morning, of course, I'm not going to have you sit constantly
11 for three whole hours or more -- but my inclination is at the
12 end of the closing arguments I will give you my instructions,
13 which will probably mean lunch will be later than usual, but it
14 seems to me it makes more sense to get that all done and then
15 you can deliberate while you are having lunch instead of having
16 half an hour or an hour where you are not allowed to talk about
17 the case and then come back and get instructions. If it gets
18 to be too late and anybody is fainting for want of food, you
19 know, raise your hand, and if it is appropriate we will take a
20 break and you will have a chance to get a quick sandwich.

21 OK. With that, we will hear closing argument on
22 behalf of the plaintiff.

23 MS. KAPLAN: Thank you, your Honor.

24 THE COURT: You may proceed, counsel.

25 MS. KAPLAN: Thank you, your Honor.

01Q5car1

Summation - Ms. Kaplan

1 Good morning, everyone. For my closing argument
2 today, I'm going to walk you through the evidence that you
3 heard in this case, highlighting the key points as they relate
4 to the questions you have to decide, all of which have to do
5 with how much to award Ms. Carroll in damages. That's what
6 lawyers do in closing arguments. And however unusual this case
7 against a former president may seem, my job and your job -- two
8 at this point -- is straightforward: Stick to the facts, to
9 the evidence, and to the law.

10 I want to start by mentioning something that Ms. Habba
11 said in her opening argument and I am going to quote her
12 directly. She said: "I want the jury to remember one thing.
13 This case is not about assault. We had that case." On this
14 point, believe it or not, I agree completely with Ms. Habba.

15 As you know, another jury, in a related case, has
16 already found that Donald Trump sexually assaulted E. Jean
17 Carroll in the spring of 1996. That same jury also unanimously
18 found that Donald Trump defamed Ms. Carroll in October 2022
19 when he falsely claimed that it never happened, that he never
20 met her, and that she made up her story.

21 In other words, what we know today is that Ms. Carroll
22 did not make it up. As you have heard, the sexual assault, and
23 as Judge Kaplan will instruct you, the sexual assault happened
24 and Donald Trump's denials and vicious accusations against her
25 were all complete lies. That has already been proven, right in

01Q5car1

Summation - Ms. Kaplan

1 this courtroom by a jury of another nine New Yorkers, sitting
2 in the very seats you are sitting, in last year. That's why
3 Donald Trump's testimony was so short yesterday. He doesn't
4 get a do-over.

5 MR. MADAIO: Objection.

6 THE COURT: Sustained. Excuse me. Overruled. It is
7 fair argument.

8 MS. KAPLAN: As a result, we also know that Donald
9 Trump lied when he made his original statements about E. Jean
10 Carroll at issue in this case on June 21 and June 22, 2019. He
11 lied about never meeting her, he lied about having no idea who
12 she was, he lied about claiming she made up her story because
13 she was getting paid off, or she wanted to sell books, or that
14 she was part of some big political conspiracy. All of that was
15 totally false.

16 So then, why are we here? What is this case really
17 about? This case is about how to compensate Ms. Carroll for
18 the harm that Donald Trump's original statements, going back to
19 June 2019, caused her. The harm to her reputation as a writer
20 and as an advice columnist, as well as the emotional pain and
21 suffering she has experienced and still experiences today. But
22 that's not all. This case is also about punishing Donald Trump
23 for what he has done and for what he continues to do. It's
24 about punishing him for the malicious nature of his original
25 attacks in 2019 and considering his repeated attacks against

01Q5car1

Summation - Ms. Kaplan

1 Ms. Carroll, right up to and including during this very trial.

2 This trial is about getting him to stop once and for all.

3 If you really think about it, this trial is also about
4 something much more profound: Whether the rules that apply to
5 everyone else, to you and to me, to Ms. Carroll, to our family
6 and friends, whether they also apply to Donald Trump. Here is
7 why that is so important. Think about Donald Trump's attitude
8 to these proceedings. To hear Donald Trump tell it, if
9 Ms. Carroll suffered harm from his lies and threats back in
10 June 2019, it is her own fault. She was asking for it by
11 revealing that Donald Trump had sexually assaulted her,
12 according to Donald Trump, she left him no choice but to attack
13 and defame her. No choice but to break the law in spreading
14 lies.

15 The defense in this case actually has the nerve to
16 suggest that Ms. Carroll actually should be grateful to Donald
17 Trump for defaming her because now she is even more famous than
18 she was before. But being infamous is different than being
19 famous. And being known as a liar and a whack job is different
20 than being known as a beloved advice columnist. Using your
21 common sense and experience, think about that idea for a
22 minute.

23 Typically, when a person accuses someone else of
24 sexual assault, the attacker doesn't have the power or the
25 influence to destroy their accuser. But Donald Trump did.

01Q5car1

Summation - Ms. Kaplan

1 Donald Trump responded to E. Jean Carroll's account by trying
2 to ruin her and he did it from the loudest platform on this
3 planet: the White House. His lies and threats were heard far
4 and wide and were believed by millions of people. Not
5 surprisingly, Donald Trump's original statements back in 2019
6 triggered a tsunami of attacks on Ms. Carroll. A mob on social
7 media repeats and amplifies what he says, often using the very
8 same words. They made good on his threat that Ms. Carroll
9 should pay dearly for telling the truth and that she was
10 venturing onto dangerous territory by accusing him of sexual
11 assault.

12 Let's pause for a minute and consider those words used
13 by Donald Trump in 2019. "Pay dearly." "Dangerous territory."
14 The attacks on E. Jean that followed Donald Trump's statements
15 were no accident, they were the inevitable result of Donald
16 Trump's own lies. They were absolutely totally foreseeable.
17 They are exactly what he wanted to happen. As a result, our
18 client, E. Jean Carroll, now has to live her life in a
19 continuous storm of hate and threats and fear and brutality.
20 She is bombarded daily by disgusting, disturbing attacks from
21 people she does not even know, all based on Donald Trump's
22 lies.

23 At various points today I'm going to ask you to try to
24 imagine what it would feel like to walk around every day in
25 Ms. Carroll's high-heeled shoes. I'm going to ask you to

01Q5car1

Summation - Ms. Kaplan

1 consider how difficult, how humiliating, how painful it would
2 be to live each day as the target of Donald Trump and the
3 hateful mob that he inspired. I am also going to ask you to
4 think about how Donald Trump has tried to normalize conduct
5 that could hardly be more admirable.

6 Typically when someone is held liable in court for
7 spreading false and defamatory lies, they stop. Think about
8 that. What would you do if a jury found your statement about
9 someone else was intentionally and damaging to that person and
10 was a lie. The answer is obvious. You would stop saying it.
11 In this country in our justice system that is how it is
12 supposed to work. Even if you don't like a jury's decision,
13 you are supposed to follow it. Those are the rules. This
14 doesn't depend on your politics, it doesn't depend on who you
15 vote for or whether you support a particular policy or a
16 particular party. We all have to follow the law. Donald
17 Trump, however, acts as if these rules and laws just don't
18 apply to him.

19 After the prior jury found that his attacks on
20 Ms. Carroll were false and defamatory last year did he respect
21 the jury verdict? No. Not at all. Not even for 24 hours.
22 You have seen the evidence we presented, he continued to repeat
23 his defamatory attacks over, and over, and over again.

24 As you know, it didn't stop even once this trial
25 began. Donald Trump spent his entire trial continuing to

01Q5car1

Summation - Ms. Kaplan

1 engage in the very defamation that landed him here in the first
2 place. He would sit here, right here in this courtroom, and
3 then leave the court house and engage in the exact same conduct
4 that a jury unanimously declared to be unlawful last May. He
5 continued to defame E. Jean Carroll, proudly and repeatedly
6 during this trial, on an almost daily basis.

7 THE COURT: Excuse me.

8 The record will reflect that Mr. Trump just rose and
9 walked out of the courtroom.

10 You may continue, Ms. Kaplan.

11 MS. KAPLAN: Thank you, Judge.

12 Donald Trump, he is the former president of the United
13 States. He remains very powerful today, obviously. And, by
14 his own account, he is extremely rich. He seems to think that
15 his wealth and power entitle him to treat Ms. Carroll however
16 he wants. And Donald Trump's strategy is to bet that you will
17 agree with him. He is hoping that you will let him off the
18 hook, that he will suffer no consequences for his unlawful
19 conduct. He is betting that you will let him continue to
20 defame Ms. Carroll lying about her and destroying her
21 reputation. But no matter what Donald Trump thinks, and no
22 matter what Donald Trump says, the rules do apply to him. He
23 is not free to continue to attack and defame Ms. Carroll just
24 because he feels like it.

25 In this country, even the most powerful person can be

01Q5car1

Summation - Ms. Kaplan

1 held accountable in a court of law. No one, not even a former
2 president, is above the law. In other words, Trump is required
3 to follow the law whether he likes it or not. Your job today,
4 ladies and gentlemen, is to uphold this core principle of our
5 democracy: To find the facts and reach a verdict based on the
6 evidence before you.

7 Donald Trump has suggested that this case is nothing
8 more than a money grab. That is dead wrong. Ms. Carroll has
9 never been compensated for the extraordinary harm he caused her
10 going back to June 2019, and Donald Trump has never been
11 punished for that harm.

12 At least one thing we know for sure, the jury verdict
13 from last year, which involved a different statement from 2022,
14 did not stop him from continuing to attack and defame
15 Ms. Carroll.

16 The law gives Ms. Carroll the right to get her
17 reputation back. That is why Ms. Carroll told you she brought
18 this lawsuit in the first place. Her old friend Carol Martin
19 said the same thing yesterday. She said that E. Jean Carroll
20 does not want to be known as the woman who lied about being
21 sexually assaulted by the president. Her goal, instead, was to
22 face the person she was accusing. Carol Martin's words: *I*
23 *know that she always wanted to have her day in court.* Now she
24 has her day in court. It is up to you guys to decide what it
25 will take to make that happen.

01Q5car1

Summation - Ms. Kaplan

1 I am going to now turn back to the evidence, starting
2 with Ms. Carroll's background and her reputation before June
3 2019.

4 THE COURT: Before we change gears, defense counsel
5 are to remain seated and that includes you Mr. Epshteyn, not
6 that you are among defense counsel at the table.

7 MS. KAPLAN: As you heard, Ms. Carroll is truly one of
8 a kind. Growing up in rural Indiana she dreamed of becoming a
9 writer. She spent years submitting articles to various
10 magazines trying to get published. She set up her first piece,
11 believe it or not, at the age of 12, but it wasn't until the
12 age of 36 when her first story was finally published.

13 Ms. Carroll told you how she spent decades building
14 her career after moving to New York City. She told you about
15 the top-tier magazines like *Esquire* and *Rolling Stone* that
16 published her work, and her time as a writer at Saturday Night
17 Live and the Emmy nominations she received about her incredibly
18 popular advice column "Ask E. Jean" which started running in
19 *Elle* magazine in 1993.

20 As you heard, her column would go on to become the
21 longest running advice column in the world. It was so
22 successful that in 1994 she got a TV show called "Ask E. Jean"
23 where she gave advice to people, live on the air. Needless to
24 say, they don't go around handing out TV shows to just anyone.

25 As Ms. Carroll told you, over the course of the time

01Q5car1

Summation - Ms. Kaplan

1 that her advice column ran on *Elle*, she received tens of
2 thousands of letters from men and women, mostly women, seeking
3 her advice. She built her career and made her name by telling
4 them the truth, by giving them honest advice, and by doing so
5 with her own unique style -- and you saw some of this on the
6 stand -- that blended toughness, humor, and candor. That's why
7 her former boss, Robbie Myers, who you heard yesterday,
8 testified that so many people wrote to her seeking advice that
9 there would be stacks of letters lying around the office for
10 her to read.

11 As Ms. Myers testified, she thought of E. Jean's
12 column as a sort of a destination, meaning people picked up the
13 magazine and the first thing they would go to would be to read
14 her column. Robbie Myers noted that as a result, Ms. Carroll
15 was very important to the *Elle* brand.

16 This is a key point. Much like her success as a
17 writer and journalist, Ms. Carroll's success as an advice
18 columnist obviously depended on the trust of her readers. In
19 all her work, her journalism, her advice columns, her TV show,
20 and her TV appearances, Ms. Carroll was known as a
21 truth-teller. This was critically important because it meant
22 that her audience could rely on her. She built that trust over
23 decades, it was the key to her success.

24 But there was one truth that was too painful, too
25 difficult for Ms. Carroll to share for most of her career. In

01Q5car1

Summation - Ms. Kaplan

1 the spring of 1996, Donald Trump sexually assaulted her. As we
2 have discussed, this fact has already been proven in this very
3 courtroom. In the aftermath of that assault, and for years
4 afterwards, like many women in her situation, Ms. Carroll tried
5 to suppress what had happened to her, to bury it. She was
6 scared and she was ashamed and she was worried that no one
7 would ever believe her. She just wanted to move on with her
8 life.

9 In 2017, she took a road trip interviewing women
10 around the country for a book she was writing. She talked to
11 women about their lives and about the men in their lives so she
12 could write about their perspectives. However, as she started
13 working on the book, it became more personal. As she
14 explained, it started to change -- and this is her testimony --
15 *It started to change when I started talking to women. If they*
16 *trusted me, why can't I trust myself a little bit and talk*
17 *about some of men in my life?*

18 Initially, Ms. Carroll did not plan to include Donald
19 Trump as part of the men in her life but, as she testified: *I*
20 *was overwhelmed by the honesty of these women -- the women she*
21 *was talking to -- and I thought to myself, my God, I'm such a*
22 *hypocrite. They are telling me their opinions and I am holding*
23 *back. If I don't do it now, I will never do it, so I included*
24 *Donald Trump.*

25 Ultimately, her 274-page book included nine pages

01Q5car1

Summation - Ms. Kaplan

1 about Mr. Trump. Right before the book was released, New York
2 magazine published an excerpt on June 21, 2019, and that
3 excerpt included the chapter about Trump's assault. It is the
4 first time Ms. Carroll spoken publicly about what had happened,
5 the first time she told the world that she had been sexually
6 assaulted by Donald Trump.

7 Donald Trump's response was both brutal and immediate.
8 He started making false and vicious attacks on Ms. Carroll and
9 he did so from the White House, using the world's biggest
10 megaphone to tear her to shreds. He told lie, after lie, after
11 lie in order to punish E. Jean Carroll for telling the truth
12 about what he had done and in order to destroy her, and
13 probably most importantly, to make sure that nobody would ever
14 believe her.

15 Put up the slide 4?

16 Mr. Trump issued his first defamatory statement about
17 E. Jean Carroll on June 21, 2019, the same day the account of
18 the assault was first published in New York magazine. The
19 statement, itself, was riddled with lies. He called
20 Ms. Carroll a disgrace for speaking up. He claimed, *I have*
21 *never met this person in my life.* A lie. He accused
22 Ms. Carroll of making up false stories of assault for
23 publicity, or to sell her book, or to carry out a political
24 agenda. More lies. He claimed that Ms. Carroll was working
25 for the democratic party. Another lie. He claimed that her

01Q5car1

Summation - Ms. Kaplan

1 false accusations diminished the severity of sexual assaults
2 experienced by other women. A lie. And, as Ms. Carroll told
3 from you that stand, the scariest part was when he concluded by
4 asking for information about her and then made a not so subtle
5 threat. You see it at the bottom: People should pay dearly
6 for such false accusations.

7 Remember -- I'm going to say this a couple more times,
8 I can't help myself -- remember, it has already been
9 established that all of these statements that you are looking
10 at were in fact lies. Donald Trump was lying and he was trying
11 to destroy Ms. Carroll. And that was just round one. The next
12 day, on June 22, 2019, Donald Trump doubled down. Standing on
13 the White House lawn he told reporters that he had no idea who
14 this woman is. In response, a reporter said to him that there
15 was a photograph of him and Ms. Carroll together with their
16 spouses. You saw that photo during this trial. Yet Donald
17 Trump still insisted: I have no idea who she is. And he
18 added: What she did, it is a terrible thing what is going on,
19 so it is a total false accusation and I don't know anything
20 about her.

21 Once again, he accused her of making up her account
22 for the sake of publicity. Once again, he described it as a
23 false accusation and a disgrace -- more lies -- and once again,
24 he threatened her. This time even more directly. Look at this
25 language: People have to be careful because they're playing

01Q5car1

Summation - Ms. Kaplan

1 with very dangerous territory.

2 This one-two punch caused extraordinary harm to
3 Ms. Carroll. She revealed the truth about Donald Trump and
4 Trump responded with two separate statements within less than
5 24 hours. These statements trashed her honesty, her integrity,
6 and her credibility. They accused her of making up a claim for
7 a quick payoff or for politics. They disparaged her for
8 harming the real victims of sexual assaults. And, they
9 included threats that she would pay dearly for speaking up.
10 This was all deliberate. Trump sought to crush Ms. Carroll so
11 quickly and so decisively that nobody would ever believe her.

12 But, his attacks did not stop on June 22nd. He did it
13 again two days later. After lying again by claiming that he
14 had never met Ms. Carroll he added, for good measure: "I will
15 say it with great respect: She's not my type."

16 Ladies and gentlemen, the implication here could
17 hardly be more obvious. Ms. Carroll must have been lying
18 because she was too ugly or too unattractive for him to
19 sexually assault. This statement, in comparison to the other
20 ones we saw, was designed to humiliate Ms. Carroll, to degrade
21 her. And even this claim, it turns out, was also a lie.

22 Remember that photo I just showed you of Ms. Carroll
23 and Donald Trump and others from the late '80s? And remember
24 what happened when I showed Donald Trump that photograph during
25 his deposition in this case? He pointed straight at the photo

01Q5car1

Summation - Ms. Kaplan

1 twice -- we will play it in a second -- mistook Ms. Carroll for
2 his own second wife Marla Maples who, like Ms. Carroll, was a
3 former beauty queen and was definitely his type.

4 Let's watch the video.

5 (Video played)

6 MS. KAPLAN: Leave it up for a second?

7 Realizing what he had done at the deposition,
8 realizing the mistake he made, Donald Trump then did what he
9 always does. He made up another lie. He said that the photo
10 was blurry. The photo he was looking at is the exact same
11 photo you see on your screen today. It is not blurry. That
12 is classic Donald Trump.

13 In response to Donald Trump's statements back in June
14 2019, Ms. Carroll filed this lawsuit. As she told you during
15 her testimony when this trial began: *I am here to get my*
16 *reputation back and to stop him from telling lies about me.* I
17 am now getting to the heart of the case, the heart of what you
18 guys have to decide: The damages that you should award
19 Ms. Carroll to compensate her for the harm that Donald Trump
20 caused. These are called compensatory damages.

21 As Judge Kaplan will instruct you, the first question
22 for you to answer is whether E. Jean Carroll was harmed at all.
23 That should be an easy one. Obviously, Ms. Carroll suffered
24 harm when then President Trump, speaking from the White House,
25 spread terrible lies about her in order to punish her for

01Q5car1

Summation - Ms. Kaplan

1 speaking up to humiliate and degrade her and to ensure that
2 nobody would ever believe her.

3 So, the real question is how to measure that harm he
4 caused. In other words how to assign a specific dollar amount
5 to it. In answering that question there are two categories of
6 harm, each of which supports its own award of what are called
7 compensatory damages.

8 First, there is the reputational harm that Ms. Carroll
9 suffered. As you have heard, Ms. Carroll has devoted her
10 entire life to succeeding as a writer and as an advice
11 columnist. The very heart of her success was her reputation
12 for honesty and integrity. You heard this repeatedly during
13 the trial from Ms. Carroll. You also heard it from Robbie
14 Myers, her long-time boss. And because of her excellent
15 reputation, Ms. Carroll did have a lot of success as a writer,
16 her childhood dream. She wrote articles and books and columns
17 and skits for Saturday Night Live, and appeared frequently on
18 TV. You heard her describe all of this herself.

19 While Ms. Carroll built that career over five decades,
20 Donald Trump shattered it in less than 24 hours. As
21 Ms. Carroll described it, people who didn't care about me,
22 really don't care about this person, they now have opinions
23 about me and that is that I am a liar. You heard extensive
24 evidence on this point from Ms. Carroll. As she explained to
25 you guys last week: *Previously, I was known simply as a*

01Q5car1

Summation - Ms. Kaplan

1 journalist and had a column. Now I'm known as the liar, the
2 fraud, and the whack job. Again, in her own words. People are
3 not dying to write to an advice columnist who the president
4 says is a disgrace.

5 Can we see the next slide?

6 Remember this e-mail I showed you, which is one of the
7 many, many, many horrible e-mails E. Jean received after Donald
8 Trump's statement, and remember how she said that despite all
9 the other e-mails calling her ugly, and slutty, and crazy, and
10 everything else, this one hurt her the most. Why did it hurt
11 her so much? Because this person said, "I sure wouldn't ask
12 you for advice." There can hardly be more direct proof -- this
13 is June 23, 2019 -- more direct proof that what Donald Trump
14 said shattered E. Jean Carroll's reputation as an advice
15 columnist.

16 In a very real way, Donald Trump's lies radically
17 transformed Ms. Carroll's public image. This change had
18 concrete impacts that could be measured. Ms. Carroll, for
19 example, used to receive hundreds of letters per month seeking
20 her advice. Today she only receives eight. She used to write
21 the nation's leading advice column read by millions
22 and millions of people in *Elle* magazine. Today? Her Substack
23 only has 28,000 subscribers with only 1,800 of those being
24 people who pay.

25 Previously, Ms. Carroll used to make more than \$50,000

01Q5car1

Summation - Ms. Kaplan

1 a year doing freelance work for magazines on a wide range of
2 topics. Today, or last year, I should say, she only earned
3 \$500 in freelance work, and the only requests she ever gets
4 anymore are to write about Donald Trump.

5 To assess the reputational harm that Donald Trump's
6 statements caused you also heard incredibly detailed testimony
7 from Ashlee Humphreys, a tenured professor at Northwestern and
8 expert in calculating the cost of repairing a person's
9 reputation.

10 As Professor Humphreys explained, before Ms. Carroll
11 was defamed by Donald Trump she had a devoted following as an
12 author, writer, and a columnist. Using an extremely
13 conservative method of accounting, Professor Humphreys'
14 calculated that Donald Trump's false and defamatory statements
15 in June 2019 about Ms. Carroll, were seen between 85 million
16 and 104 million times. Please keep in mind that's only his
17 statements on June 21 and June 22, 2019, and that's only a
18 small part of all of the many places where those statements
19 were spread.

20 Professor Humphreys explained this in great detail.
21 For news articles, for example, she only used the 47 articles
22 we cited in our complaint. She then considered only the number
23 of people who visited those corresponding news sites on the
24 exact same days, June 21 and June 22, that those articles
25 appeared. In other words, it is important to think about what

01Q5car1

Summation - Ms. Kaplan

1 Professor Humphreys didn't do. She didn't consider anyone who
2 might have looked up the articles online the next day, June
3 23rd, June 24th, or the next week, or the next month. She
4 didn't consider any local newspapers that reported Donald
5 Trump's statements. And she didn't consider articles that were
6 published later that continued to quote Donald Trump's
7 defamatory claims.

8 For social media, her approach was even more
9 conservative. First of all, she looked only at Twitter.
10 Second of all, within Twitter, she looked only at tweets that
11 originated from sites like the New York Times or Fox News and
12 quoted or paraphrased Trump's June 21 or June 22 statements.
13 That's obviously only a tiny portion of what happens on
14 Twitter.

15 Professor Humphreys didn't include tweets where
16 someone on their own quoted what Donald Trump said. And, most
17 importantly, she didn't include any contact from anywhere else
18 on social media. She didn't look at Facebook. She didn't look
19 at YouTube. Didn't look at Instagram or Reddit or Tic Tac --
20 TikTok, excuse me -- Tic Tac is for a sore throat -- or any
21 other social media platform.

22 And with respect to television, she considered only
23 six TV shows, national TV shows, and she didn't consider any
24 local news. She didn't consider any podcasts. She didn't
25 consider radio. She was focused only on the two days that

01Q5car1

Summation - Ms. Kaplan

1 Trump made his statements in 2019 and she didn't even count how
2 many times Donald Trump's statements continued to be repeated
3 in the rest of 2019, 2020, 2021, and so on, until today.

4 Given the very limited nature of what Professor
5 Humphreys did, the number of impressions she calculated cannot
6 even begin to capture just how far Donald Trump's lies spread.
7 In other words, 85 to 140 million impressions, as large as it
8 may seem, has to be a dramatic undercount. We know that far
9 more people actually heard or read Donald Trump's lies than
10 that.

11 Of the people who saw those statements, Professor
12 Humphreys found that between 21 and 24 million of them were
13 likely to believe his lies. Again, definitely an undercount
14 for the same reasons I just explained and a very substantial
15 one.

16 Ultimately, Professor Humphreys designed what experts
17 in the field call a reputational repair campaign, basically a
18 series of public relations steps necessary to fix the harm that
19 Donald Trump's defamatory statements caused. You may not be
20 familiar with them but, apparently, such programs happen all
21 the time. And Professor Humphreys is an expert and teaches her
22 students how to do that.

23 As Professor Humphreys testified, she calculated that
24 it would cost between \$7 million and \$12 million to repair the
25 harm caused by Donald Trump's defamatory statements from

01Q5car1

Summation - Ms. Kaplan

1 June 21 and June 22, 2019. That's obviously a significant
2 number but it is actually a lot smaller than other reputational
3 repair campaigns, as Professor Humphreys explained.

4 MR. MADAIO: Objection. That's not in the record your
5 Honor.

6 MS. KAPLAN: It is.

7 THE COURT: The jury will remember what is in the
8 record. In fact, if I recall correctly -- and it is the jury's
9 recollection that controls -- the defense asked Professor
10 Humphreys whether she was familiar with the cost of other
11 campaigns and she referred to one and gave a figure. I leave
12 it to you.

13 Go ahead.

14 MS. KAPLAN: In fact -- and I am just going to get
15 there -- she told you about the reputational repair campaign in
16 the case against Rudy Giuliani brought by the election workers
17 he defamed. She said the amount of that campaign was
18 \$48 million. She also would know because she was the expert --

19 MR. MADAIO: Objection. That's not in the record,
20 your Honor.

21 MS. KAPLAN: It is in the record.

22 THE COURT: Members of the jury, you are the judges of
23 the facts. You heard the evidence. I don't remember, frankly.
24 It is up to you.

25 MS. KAPLAN: So, it is definitely not a reach to

01Q5car1

Summation - Ms. Kaplan

1 conclude that for Ms. Carroll it would cost at least
2 \$12 million. This is an exceptional case. Ms. Carroll has a
3 national reputation. Donald Trump has a global audience. His
4 June 21 and June 22 statements alone reached at least
5 100 million and probably many more than 100 million people.
6 Because he had such a huge microphone, the damage he caused was
7 significant so the cost of repairing that damage is
8 significant, too.

9 We know from Professor Humphreys' testimony that her
10 whole model is based on a very conservative undercount of the
11 actual numbers which we believe justifies an amount by you at
12 the top of the range, or \$12 million. That's the first
13 category of compensatory damages, what it would take to fix
14 Ms. Carroll's reputation.

15 The second category of compensatory damages is where
16 you need to decide how much to award Ms. Carroll for the pain
17 and suffering that she has been experiencing. Judge Kaplan is
18 going to instruct you later that this includes the humiliation
19 and mental anguish E. Jean Carroll suffers in her public and
20 private life that was caused by Donald Trump's statements.
21 Here, the evidence was as shocking as it was unmistakable. As
22 Ms. Carroll testified, "Trump's statements ended the world that
23 I had been living in."

24 Imagine for a second what it would feel like to go to
25 sleep in one world and to wake up in another world where the

01Q5car1

Summation - Ms. Kaplan

1 president of the United States, a man who had sexually
2 assaulted you years before he took office, is attacking you as
3 a liar and a fraud for telling the truth. Imagine Ms. Carroll
4 sitting alone in that hotel room on 10th Avenue, late in the
5 night on June 21, 2019, opening her laptop, only to see
6 horrible things on Twitter; the nasty messages and death
7 threats from strangers flooding her e-mail inbox including
8 graphic images. Imagine her sitting there struck by fear and
9 sadness and the reality that the man who had attacked her was
10 coming after her again. E. Jean Carroll testified that she was
11 so terrified that night that she tried to close the hotel room
12 curtain so that no one could see through but she couldn't get
13 it closed. So, she ultimately hung up a jumpsuit to try to
14 cover up the glass. She stayed up all night that night of
15 June 21, unable to sleep, heart pounding, as she read the flood
16 of hateful and threatening messages she had received from
17 complete and total strangers.

18 It would have been bad enough had it only been that
19 one night, or one week, or one month. But, as you heard, those
20 initial attacks, including those initial death threats, were
21 followed by many, many more. This, again, ladies and
22 gentlemen, was no coincidence. Remember what he had said?
23 Donald Trump had said that Ms. Carroll should "pay dearly" and
24 that she had entered onto "dangerous territory." That's
25 exactly what Donald Trump wanted to happen and that's exactly

01Q5car1

Summation - Ms. Kaplan

1 what did happen. As you heard from Ms. Carroll, this was a
2 pattern. Every time Donald Trump repeated his lies about her,
3 an online mob attacked her.

4 Ms. Carroll told you how she realized at some point
5 that she was now living in a new universe. She received
6 horrifying messages on Facebook, on Twitter, and Instagram.
7 And she also -- and also her personal and professional e-mail
8 accounts calling her a liar, a fraud, a hack, a paid operative,
9 ugly, too disgusting to touch or to rape, an enemy of all
10 survivors of sexual assault.

11 These attacks echoed the lies that Donald Trump spread
12 about Ms. Carroll in his June 21 and June 22 statements. They
13 copied his very words. They made good on his very threats.
14 For example, one of the things, as everyone knows he said, is
15 that she is a liar. So, here are e-mails and tweets calling
16 E. Jean Carroll a lying old hag, a lying ass bitch, and a lying
17 fraud.

18 In addition, as you will recall, Donald Trump had said
19 that Ms. Carroll made up these lies in order to sell a book.
20 Here are messages she received: You're only saying this to
21 promote your book. You are psychological messed up to lie
22 about something like this to draw sales for your book. We also
23 need fewer money-grubbing whores who lie. He also said that
24 she was a political operative and that's why she made up the
25 lie. You heard this during her testimony, they accused her of

01Q5car1

Summation - Ms. Kaplan

1 being paid off by George Soros of the DNC. They asked: How
2 much did the democrats pay for your lies, bitch?

3 And with these attacks, even worse, came terrifying
4 threats as well -- threats of violence, threats to jail her, to
5 rape her, to kill her. Keep in mind that this is just a small
6 sample of what Ms. Carroll actually received. She testified
7 that she receives thousands of attacks and hundreds of threats
8 of violence. Imagine what it would be like to live in
9 Ms. Carroll's new world. Imagine the toll it would take on you
10 if day, after day, after day, you had to endure such hate and
11 threats knowing that there would be more waiting for you every
12 single time you looked at your phone or opened up your laptop.
13 Imagine how it would feel if you posted a tweet just last year
14 on December 25, 2023, simply saying that the Earth needs care
15 and love, not war and hatred. And that in response to that
16 tweet, which had nothing to do with Donald Trump, nothing to do
17 with politics at all, the responses were -- excuse my
18 language -- you are a cunt. Shut the fuck up, lying fraud. We
19 also need fewer money grubbing whores who lie. No way Trump
20 touched this mess, etc.

21 While Ms. Carroll testified that she never received
22 messages like these before June 2019. Since then, according to
23 her, they have never stopped. All of those attacks have
24 upended how she thinks of herself, her sense of well being and
25 self-worth. As she herself explained it, *To have the president*

01Q5car1

Summation - Ms. Kaplan

1 of the United States, one of the most powerful persons on Earth
2 calling me a liar for three days and saying I'm a liar 26
3 times -- I counted them -- it ended the world I had been living
4 in and I had a new world.

5 And then the next slide, she also explained: *Here is*
6 *the thing. I understand that people have been through a lot*
7 *more than I have ever been through in my life but this laid me*
8 *low. It was so unexpected from a place where I felt that I was*
9 *doing well in the world and helping people.*

10 Messages like these understandably made Ms. Carroll
11 worry about her safety. Imagine knowing that all these people
12 out there hate you, they all want you to be raped or killed,
13 wondering if they live across the street or right down the
14 street, always worried that one day someone would act on these
15 threats, always looking over your shoulder, always looking
16 around the corner in the parking lot wondering if you would
17 ever have peace of mind ever again.

18 Donald Trump's lawyers sat here in this courtroom --
19 or I should say stood here in this courtroom, and dismissed
20 these messages as just a few mean tweets. Mean tweets? You
21 have seen them. And you heard directly from Ms. Carroll about
22 how they made her life so much sadder and darker. Your verdict
23 should compensate Ms. Carroll for the harm that Donald Trump
24 caused by making these attacks part of her daily existence and
25 causing her to live in fear.

01Q5car1

Summation - Ms. Kaplan

1 How do you assign a dollar number to this? How do you
2 determine what it would cost to compensate Ms. Carroll for her
3 fear, her terror, her anguish to make her feel safe? I'm not
4 going to stand here and tell you there is some mathematical
5 formula for this. There is no model like the one used by
6 Professor Humphreys in connection with the reputational repair
7 campaign but you don't need a model. We are all human beings
8 and we are all capable of understanding the pain and suffering
9 that Ms. Carroll has experienced. In our view, the damage to
10 Ms. Carroll's sense of self, to her peace of mind, to the
11 feeling that we all have that we can go about our lives every
12 day and not be suddenly attacked, or raped, or killed, is very
13 significant, so the dollar number to compensate her for that
14 has to be very large. We, therefore, believe that the number
15 required to compensate Ms. Carroll for her anguish and her
16 suffering is at least as much, and probably much more, than the
17 \$12 million it would take for the reputational repair campaign.

18 I have now spoken about what would be required to
19 compensate Ms. Carroll for the damage to her reputation and for
20 the damage to her mental well-being. Now I want to talk about
21 what it will take to get Donald Trump to stop. This leads me
22 to the question of punitive damages.

23 The whole point of punitive damages is to punish a
24 defendant who has acted maliciously, to stop him and others
25 like him from act in a similar manner in the future. I

01Q5car1

Summation - Ms. Kaplan

1 referred to this earlier and Judge Kaplan is going to instruct
2 you on it. I suspect that he will tell you that, in
3 determining the amount of punitive damages to award, you should
4 consider the reprehensibility of the conduct, the defendant's
5 awareness of the harm he would cause, the actual or potential
6 harm that he caused, as well as the defendant's financial
7 condition and the impact of your award on him or her
8 financially.

9 As you think about all of that, I would like you to
10 consider what Donald Trump has done here. Really consider it.
11 Twenty-five years after Donald Trump sexually assaulted her,
12 Ms. Carroll came forward to tell her story. In response,
13 Donald Trump set out to ruin her life. Wielding his position
14 as president, he attacked her integrity and her honesty. He
15 not only denied the sexual assault but he said that she made it
16 up for money or fame or part of a conspiracy. He said she was
17 a disgrace who undermined true victims of assault. He
18 threatened her twice. He insulted her claiming she was too
19 ugly to assault and he unleashed millions of other people to
20 repeat his lies and flood her with hate.

21 Now, you actually got a chance to see some of this for
22 yourselves yesterday when we played excerpts from Donald
23 Trump's deposition in this case. Remember what he said about
24 E. Jean Carroll during that deposition? He called her sick.
25 He called her mentally sick. He called her a sick person. He

01Q5car1

Summation - Ms. Kaplan

1 also said there is something wrong with her. And he even
2 threatened to sue her.

3 Let's watch the video.

4 (Video deposition played)

5 MS. KAPLAN: Ladies and gentlemen, if those excerpts
6 do not show you malice and spite, it is very hard to imagine
7 what possibly could. And again, Donald Trump's attacks have
8 only continued.

9 In October of 2022, just before the deposition that
10 you just saw, Donald Trump lashed out at Ms. Carroll yet again.
11 Posting on his own social media platform TruthSocial, he
12 repeated his defamatory attack, the same lies and the same
13 insults, but he added some things. He added the phrase that it
14 was a hoax, a complete con job. And he couldn't help
15 himself -- he couldn't help himself -- he had to say it again:
16 *She's not my type.*

17 In response to that statement, Ms. Carroll filed her
18 other lawsuit. As you have heard, that case moved much faster
19 than this case and that's the trial that happened last spring
20 when the jury found unanimously that Donald Trump assaulted
21 Ms. Carroll in 1996 and defamed her with this statement in
22 2022. But, even after that jury decided that Donald Trump had
23 violated the law and that he was lying about all of this, he
24 kept on doing it. For most people, losing one trial would be
25 enough to stop you from breaking the law. But not for Donald

01Q5car1

Summation - Ms. Kaplan

1 Trump.

2 As we have seen, immediately after the jury awarded
3 damages to Ms. Carroll in the first trial, Donald Trump not
4 only defamed her again on national TV, but tried to use his
5 lies about Ms. Carroll to connect people to his presidential
6 campaign. Think about that. Think about how disturbing that
7 really is. Donald Trump is spreading proven lies about his
8 sexual assault victim for his own benefit? Let me show you.

9 The day after the jury verdict, May 9, the next day,
10 Donald Trump posted this video to his millions of followers on
11 TruthSocial and he repeated the same lies. Let's watch it.

12 (Video played)

13 MS. KAPLAN: That wasn't all. The next day -- I'm
14 sorry. That video was from the day of the verdict. I
15 apologize. That was that evening. The next day, Donald Trump
16 doubled down again. He went on television and did a CNN town
17 hall and he again lied about Ms. Carroll. This is what he
18 said: *I never met this woman. I never saw her. I have no*
19 *idea who the hell she is.*

20 Even though a federal jury had just found
21 Ms. Carroll's account to be true and his statements to be
22 false, Donald Trump called her account fake and made up.

23 Let's watch.

24 (Video played)

25 (Continued on next page)

01QQcar2

Summation - Ms. Kaplan

1 MS. KAPLAN: (Continued) In addition to the lies and
2 the insults, including the new one there, whack job, what else
3 happens in that video? The audience laughs. I'm sure you
4 remember E. Jean on the stand here in this room testifying
5 about how horribly that laughter made her feel. After she won
6 the last trial, E. Jean told you that at first for a brief
7 period she felt an enormous sense of relief. She said she
8 thought to herself "Now at least I can start to get my
9 reputation back." But as she testified, and as you have now
10 seen, that didn't happen. The initial relief she felt only
11 lasted a few minutes.

12 Imagine that again. Ms. Carroll had been through a
13 grueling process for four years of a lawsuit to gain her
14 reputation back.

15 She filed a second lawsuit after Donald Trump had
16 defamed her again, and after she was vindicated, after a jury
17 unanimously declared that she was right and he was wrong, Trump
18 went on the attack again, and it hasn't let up since. If
19 anything, his attacks have only intensified.

20 Donald Trump has continued to post hateful, damaging
21 lies on Ms. Carroll on social media. He has said that she made
22 up a totally fabricated accusation. Another lie. He posted
23 that he has absolutely no idea who she is or even what she
24 looks like. All lies.

25 Here is the truly shocking part. The truly shocking

01QQcar2

Summation - Ms. Kaplan

1 part is that those false denials and attacks have continued
2 during this trial. Last week, while Ms. Carroll was still on
3 the stand, Donald Trump walked out of this courtroom and then
4 out of the courthouse to hold a press conference. During that
5 press conference, while you were sitting in this jury box, he
6 told even more lies about Ms. Carroll.

7 Go ahead and play it.

8 (Video played)

9 MS. KAPLAN: He told a similar lie in his *Truth Social*
10 post you have up on the screens in front of you where he said
11 he never heard of her, never touched her and had nothing to do
12 with her. But he made his most damning statement, his most
13 reprehensible statement of all last Thursday. You could put
14 that up. He said, and I quote, "I've said it once and I'll say
15 it again, a thousand times, I never heard of E. Jean Carroll,
16 never touched her or in any way would want to touch her."

17 A thousand times? Are you kidding me? Donald Trump
18 has openly made it his mission to destroy Ms. Carroll's
19 reputation and credibility by lying about her, and that he's
20 prepared to keep doing it a thousand times unless you make him
21 stop.

22 And in figuring out what kind of damages would
23 actually cause Donald Trump to stop, to stop attacking
24 Ms. Carroll, there is another very important thing for you to
25 consider. As you have seen, Donald Trump is a very wealthy

01QQcar2

Summation - Ms. Kaplan

1 man. He has said that his brand alone is worth \$10 billion.
2 He said it's the hottest brand in the world. And that doesn't
3 include his other assets, which are also substantial. He
4 testified under oath in the case in the other deposition you
5 saw yesterday, that Mar-A-Lago is worth \$1.5 billion; that
6 another property in Florida, the Doral, is worth \$2 and a half
7 billion --

8 MR. MADAIO: Objection. Your Honor, these are not
9 personal assets she's referring to.

10 THE COURT: Overruled. The jury will remember the
11 testimony.

12 MS. KAPLAN: That's \$14 billion right there, ladies
13 and gentlemen. Donald Trump is prepared to use his wealth and
14 power to defame people whenever he wants. He ignored the last
15 jury verdict as if it had never happened. In fact, you heard
16 him brag on CNN that he thought he was now more popular as a
17 result. But that's not how this works. The law protects
18 people from defamatory attacks on their character, and it
19 allows an award of punitive damages to deter them from keeping
20 at it.

21 Indeed, while my cross-examination yesterday went very
22 fast, it did reveal one very important fact. At the first
23 trial between Ms. Carroll and Mr. Trump, the one where a jury
24 just like you determined that he had sexually assaulted her and
25 had defamed her, Donald Trump didn't even bother to show up.

01QQcar2

Summation - Ms. Kaplan

1 MR. MADAIO: Objection.

2 THE COURT: Overruled.

3 MS. KAPLAN: Yet, at this trial, at this trial where
4 the issue is about how much more money he has to pay, with
5 certain exceptions that you just saw, he has made sure that he
6 has been here for most of the trial. What does that mean? It
7 means that the one thing that Donald Trump cares about is
8 money. While Donald Trump may not care about the law, while he
9 certainly doesn't care about the truth, he does care about
10 money. As a result, your decision to award a large amount of
11 punitive damages may be the only hope that E. Jean Carroll has
12 to ever be free from Donald Trump's relentless attacks ever
13 again.

14 And so the question for you as a jury is this: Given
15 Donald Trump's insistence on continuing to defame Ms. Carroll
16 and given his immense wealth, how much will it take to make him
17 stop? One thing I know for sure, whatever it will take to make
18 Donald Trump stop, simply awarding compensatory damages is not
19 enough. In fact, it's not even close. That's why the whole
20 concept of punitive damages exists, and it's your job to decide
21 exactly how much money to give her, to give Ms. Carroll a
22 chance at a normal life again where she is not regularly
23 bullied and humiliated by one of the most powerful men on the
24 planet.

25 I'm getting to the end, I promise.

01QQcar2

Summation - Ms. Kaplan

1 What did Donald Trump's lawyers have to say about all
2 of this? Mostly, they tried to blame E. Jean Carroll. Under
3 their theory, any harm that she suffered is somehow her own
4 fault, and Donald Trump's decision to spread lies about her had
5 nothing to do with any harm she experienced. If anything, they
6 insist - and this is truly incredible - she actually should be
7 grateful to Donald Trump since his lies and attacks got her
8 more Twitter followers. These arguments are not only wrong,
9 but I hope you see how offensive they really are. First, Mr.
10 Trump's lawyers accuse Ms. Carroll of bringing all this harm on
11 herself by speaking out in the first place. Of course, they
12 don't deny that Donald Trump sexually assaulted Ms. Carroll.
13 They can't. He did it, as Judge Kaplan already told you.

14 MR. MADAIO: Objection.

15 THE COURT: Overruled.

16 MS. KAPLAN: May I go on, Judge?

17 THE COURT: I overruled it. Go on.

18 MS. KAPLAN: But Donald Trump is still asking you to
19 penalize Ms. Carroll for telling her story when she did, with
20 absolutely no evidence to support their position, his attorneys
21 accuse Ms. Carroll of intentionally waiting 23 years to tell
22 the truth, and she did that, according to them, as part of some
23 crazy, undefined scheme hatched long ago to achieve fame and
24 fortune in 2019. Excuse my language here, but that is nothing
25 less than nutso.

01QQcar2

Summation - Ms. Kaplan

1 You heard Ms. Carroll testify about why she spoke up
2 and when she spoke up. She was inspired by women across the
3 country whose stories she was learning on a road trip, and she
4 felt she finally owed readers the whole truth in her old age.

5 By the way, Donald Trump had already been famous and
6 rich for decades at this point. He already had been elected
7 president three years before. If Ms. Carroll was desperate for
8 money and status and fame, as they claim, then why on earth
9 would she wait until 2019 to first reveal the sexual assault.

10 At bottom Donald, Trump's strategy is to blame the
11 victim, plain and simple. Rather than accept responsibility
12 for his own behavior, his lawyers attack Ms. Carroll for not
13 keeping quiet, and they suggest that her choice to tell the
14 truth somehow excused Donald Trump's decision to act with
15 vicious lies.

16 You know that's wrong. Donald Trump isn't the one
17 who's the victim here. Engaging in illegal defamation is not a
18 legitimate form of self-defense. The idea that Ms. Carroll was
19 asking for it, that his unlawful behavior is somehow her fault,
20 could hardly be more wrong. But this isn't just a matter of
21 common sense, which you all know in your guts. It's also a
22 legal principle. In contrast to what Mr. Trump's lawyers have
23 previously said, we expect that Judge Kaplan will instruct you
24 later that by coming forward to reveal that she was sexually
25 assaulted, Ms. Carroll did not consent to being defamed by

01QQcar2

Summation - Ms. Kaplan

1 Mr. Trump; that she did not authorize him under the law to
2 spread false and defamatory lies about her as some kind of
3 self-defense. When a woman who has been sexually assaulted
4 comes forward and truthfully reveals what happened to her, her
5 abuser does not get special permission to break the law by
6 engaging in defamation.

7 Trump's next defense is that his statements didn't
8 really matter; that they had no real effect in this world, and
9 that they didn't cause any damage to Ms. Carroll. As Ms. Habba
10 put it in her opening statements in this case, Trump's
11 statements attacking Ms. Carroll, and I quote, "Did nothing to
12 add to the wave of criticism."

13 In support of this argument Ms. Habba - and you've
14 heard it many times now - points to a handful of statements or
15 a statement that appeared online and what they characterize as
16 the gap between the publication of Ms. Carroll's account in *The*
17 *Cut* and the publication of Donald Trump's first defamatory
18 statement in that tweet from Laura Litvan. To hear Ms. Habba
19 tell it, the fact that some people immediately criticize
20 Ms. Carroll online during the so-called gap is somehow proof
21 that Donald Trump's attacks had no impact or that their impact
22 was minimal. Seriously? Give me a break. After all, the
23 White House, which was run by Donald Trump, had already denied
24 Ms. Carroll's claims in *The Cut* article itself.

25 MR. MADAIO: Objection.

01QQcar2

Summation - Ms. Kaplan

1 THE COURT: What's the -- overruled.

2 MS. KAPLAN: So his lies were in circulation from the
3 get-go.

4 And when Donald Trump did speak later in the afternoon
5 on June 21, the attacks on E. Jean Carroll followed almost
6 immediately, which isn't surprising. His defamatory statements
7 on June 21 and June 22, both issued within 24 hours of each
8 other, included hateful, vicious claims about her. They also
9 included threats that she should pay dearly.

10 And here you see the statement, the tweet by
11 Ms. Litvan, 5:17 p.m. in one of the many messages Ms. Carroll
12 received not even an hour later.

13 I've talked already about the ways that the mob
14 mimicked the language that Trump used. Years later, they also
15 made clear they continued to understand what he wanted them to
16 do. As someone wrote to Ms. Carroll last summer: "Suing Trump
17 was your first mistake. Now Trump is going to get back at
18 you."

19 Let me be clear. Presidents he don't make two public
20 statements within 24 hours because they think that nobody will
21 believe them or act on them. And Donald Trump didn't make
22 these defamatory statements because he thought they wouldn't
23 have any impact on the world. He made them because he hoped
24 and he knew that they would. And he was right. They caused
25 Ms. Carroll great harm.

01QQcar2

Summation - Ms. Kaplan

1 Donald Trump's third and final argument is that
2 Ms. Carroll brought the harm on herself by speaking publicly,
3 by going on TV and podcasts to tell her side of the story, and
4 to make clear that his statements were lies. You heard
5 Ms. Habba talk about this during her opening argument. She
6 talked about a so-called duty to mitigate in her opening
7 statement. This is one of the slides that she used. I expect
8 that Judge Kaplan is going to tell you that this statement, her
9 statement in this opening slide, was incorrect; that it was
10 wrong for the defense to try to blame Ms. Carroll in this way.
11 Judge Kaplan will tell you that a person who was defamed has no
12 duty to mitigate or minimize any harm caused to that person by
13 the defamation. A person who defames a plaintiff is liable to
14 the plaintiff for all damages caused to the plaintiff by the
15 defamation. Think about that. Donald Trump's defense counsel
16 at the very beginning of this trial made an argument that has
17 no basis in the law.

18 Yet, Donald Trump's position isn't just wrong as a
19 matter of law; it's also wrong as matter of the facts and as a
20 matter of common sense. In Donald Trump's view, every time
21 E. Jean Carroll defended herself, she was just baiting him and
22 his supporters to engage in more attacks. So again, it's her
23 fault. They simply couldn't control themselves when she
24 defended herself and her reputation. But ask yourselves what
25 does Donald Trump think Ms. Carroll should have done after he

01QQcar2

Summation - Ms. Kaplan

1 lied about her in June 2019? Is he really saying that she had
2 a duty to keep her mouth shut and hide in her cabin in the
3 woods? That's nonsense. It's just another way of saying that
4 Ms. Carroll should never have come forward in the first place;
5 that she deserves everything that happened to her for daring to
6 tell the truth.

7 Let me be clear, Ms. Carroll had every right to try to
8 establish her reputation in response to Donald Trump's lies.
9 She didn't succeed, but she had every right to try. Far too
10 many people still view her as a liar and fraud and much worse.
11 In fact, it was courageous, not wrong, of Ms. Carroll to stand
12 up for herself the way she has.

13 That brings me to Donald Trump's most insulting
14 argument; that Ms. Carroll actually benefited from his
15 defamation. I have to be honest with you, it takes a lot of
16 gall to make an argument like that. You saw what Donald Trump
17 said about her. You saw the horrific online attacks that
18 followed. You saw her testify about how this has impacted her
19 life and how it's harder and sadder and more painful now for
20 her than it used to be. Could anyone really think that his
21 June 21 and June 22 statements helped her in any way? Donald
22 Trump's lawyers described Ms. Carroll as a heartless,
23 conniving, controversy-loving, fame-seeking monster --

24 MS. HABBA: Objection.

25 THE COURT: The jury will recall the evidence whatever

01QQcar2

Summation - Ms. Kaplan

1 it was.

2 MS. KAPLAN: -- whose only goal was to make money by
3 getting herself on magazine covers. By those measures, they
4 insist she's doing better thanks to Donald Trump. But that's
5 not who E. Jean Carroll is. You saw her here yourself. The
6 idea that she should be grateful to him that she's now better
7 off is indefensible. And once again, like so many of
8 Mr. Trump's other arguments, it's also wrong under the law. We
9 expect that Judge Kaplan will instruct you on this point, that
10 even if Donald Trump's defamatory statements somehow benefited
11 Ms. Carroll's reputation, even if being called a liar and a
12 fraud and being threatened and insulted somehow improved her
13 standing in some parts of the community, you are not to
14 consider that as any benefit to her in deciding an award of
15 damages. What matters for your purposes is the harm that
16 Donald Trump caused with his lies, not any claim that he
17 boosted her with his defamation.

18 And what about their argument that Ms. Carroll didn't
19 suffer damages because she's not completely broke? It's also
20 wrong. As Ms. Carroll testified, she has definitely found ways
21 to support herself over the past several years, including
22 through her Substack column and from minor book royalties, but
23 she's also faced serious professional and reputational hardship
24 throughout this period. She's lost many opportunities. The
25 fact that she has managed to get by and even find some modicum

01QQcar2

Summation - Ms. Kaplan

1 of success is to her credit. That happened despite Trump's
2 lies and threats, not because of them, and it does not let
3 Donald Trump off the hook for the grievous harm he inflicted.

4 I'm really going to sit down now in a couple minutes,
5 I promise.

6 Let me say this: On behalf of E. Jean Carroll, and
7 our whole team, thank you so much for the time, the patience
8 and the attention you have given during this trial. I know
9 that some of the evidence, particularly some of the threats and
10 messages, have been ugly, and I appreciate your attention to
11 all of the evidence.

12 As I said earlier, you now have three key questions
13 you have to answer: First, what will it take to fix the damage
14 that Donald Trump caused to Ms. Carroll's reputation?

15 Professor Humphreys gave you a range for that number
16 of between \$7 and \$12 million. Since we know that her number
17 is very conservative and involves a lot of undercounting, we
18 think that that number should be \$12 million.

19 Second, what amount is necessary to compensate
20 Ms. Carroll for the mental anguish that Donald Trump caused her
21 to suffer to compensate her for the pain and distress, for the
22 fear, et cetera?

23 In our view, given the threats she had and continues
24 to receive, that number should be at least as much as the
25 reputational repair campaign, or \$12 million, probably much

01QQcar2

Summation - Ms. Kaplan

1 more, but at least as much as the \$12 million.

2 Finally, we have punitive damages. I'm not going to
3 stand here and tell you exactly how much you should award in
4 punitive damages, but I will say that punitive damages are
5 effective only if they have a meaningful impact on the
6 defendant, and that the law says that you can consider Donald
7 Trump's wealth, as well as his malicious and spiteful
8 continuing conduct, in making that assessment. Donald Trump is
9 worth billions of dollars. He said that under oath. Billions
10 of dollars to Donald Trump is just a drop in the bucket. Think
11 about it this way. A billionaire like Donald Trump could pay a
12 million dollars a day for ten years and still have money left
13 in the bank. With that sort of extreme wealth, it will take an
14 unusually high punitive damages award to have any hope of
15 stopping Donald Trump, to have any chance of allowing
16 Ms. Carroll's life to return to normal.

17 When you begin your deliberations later today, I also
18 encourage you to step back and think about the bigger picture.
19 At its core, what's really going on here? We have a former
20 president of the United States, one who sexually assaulted a
21 woman years ago, who brutally defamed and threatened her when
22 she came forward, and who continues to defame her to this day
23 even though one jury has already found him liable and another
24 jury, you, has been hearing evidence in this case. We have a
25 man who has time and time again shown contempt for the rule of

01QQcar2

Summation - Ms. Kaplan

1 law and our system of justice. He thinks the rules that govern
2 everyone else don't apply to him. He thinks that his fame, his
3 wealth and his power can buy him the right to do whatever he
4 wants to whomever he wants whenever he wants. I know that you
5 will do the right thing and stand up not only for
6 E. Jean Carroll but for the principle that the rule of law
7 applies to all of us, even the rich and powerful, even Donald
8 Trump.

9 Imagine a world where someone who has been found
10 liable for defamation could avoid responsibility just by
11 continuing to defame their victim, if continuing to attack
12 someone with vile, vicious smears could somehow give the
13 attacker a kind of free pass to keep doing it forever. In that
14 world, the law would be meaningless. In that world, no one,
15 none of us, would ever be safe from bullies.

16 But there is a way to stop someone like Donald Trump,
17 someone who just last week said he planned to lie about
18 E. Jean Carroll a thousand times, someone who cares more about
19 wealth and fame and power than respecting the law. You
20 actually have the opportunity, maybe even the responsibility,
21 to put an end to this right now with your verdict by requiring
22 Donald Trump to pay an amount of money large enough for him -
23 and I repeat, large enough for him - that it will finally make
24 him stop. What you should do, ladies and gentlemen, is make
25 him pay for what he has done to E. Jean Carroll. In fact,

01QQcar2

Summation - Ms. Habba

1 borrowing the very same words that Donald Trump used to attack
2 E. Jean Carroll back in June 2019, now is the time to make him
3 pay for it, and now is the time to make him pay for it dearly.

4 Thank you very much.

5 THE COURT: Thank you, Ms. Kaplan.

6 We'll take a ten minute break.

7 (Recess)

8 THE COURT: Bring in the jury.

9 The record will reflect Mr. Trump has returned.

10 (Jury present)

11 THE COURT: Ms. Habba, you may proceed.

12 MS. HABBA: Thank you, your Honor.

13 Good morning, ladies and gentlemen of the jury.

14 That was some rendition of the facts. Counsel even
15 went as far as to tell you what my arguments were. I've never
16 heard that before. Now I get to actually tell you what the
17 arguments are and also what they have not proven.

18 I want to thank you for spending time away from your
19 families to be here for Ms. Carroll's second civil trial for
20 additional money damages. We watched six days of a plaintiff
21 trying to pin Twitter trolls' comments on a former president of
22 the United States without accepting any responsibility for the
23 media and the press frenzy and the public profile that she
24 wanted, and she still enjoys.

25 There is no one that can truly express the frustration

01QQcar2

Summation - Ms. Habba

1 of the last few years better than my client, the former
2 president of the United States. This is the president reacting
3 to the trial held last year.

4 (Video played)

5 MS. HABBA: I want to thank plaintiff's counsel for
6 playing that for me. They're right, that's how he feels. Can
7 you imagine a world where someone can accuse you of a terrible
8 accusation and then you defend yourself, respond to reporters
9 on the South Lawn as the sitting president and you can't speak?

10 MS. KAPLAN: Objection, your Honor.

11 THE COURT: Overruled. I said overruled.

12 MS. HABBA: Thank you, your Honor.

13 In fact, I'm surprised she objected because she just
14 said in her closing that Ms. Carroll defended herself by going
15 on TV, by speaking about my client. She said that just now;
16 Ms. Carroll had a right to defend herself but what's good for
17 thee is not good for me, I guess. What's good for me is not
18 good for thee. They want it both ways. The president has been
19 consistent. She's right. He has said the same thing over and
20 over again, and do you know why he has not wavered? Because
21 it's the truth.

22 MS. KAPLAN: Objection, your Honor.

23 THE COURT: Sustained. The jury will disregard that
24 assertion. It has been conclusively determined. As far as you
25 are concerned, I will instruct you further.

01QQcar2

Summation - Ms. Habba

1 MS. HABBA: He's right, a jury made a decision. A
2 jury. But you know who hasn't been inconsistent, who's not
3 consistent at all? Ms. Carroll. So her so-called expert whose
4 report has more holes than Swiss cheese, and Ms. Carroll's
5 attorneys whose publicists are peddling her story, we heard
6 that in this court. It wasn't a pretty fact. Whose bank
7 rollers are paying my witness's attorneys in a form of
8 desperation that I have never seen.

9 MS. KAPLAN: Objection.

10 THE COURT: That's sustained, and the jury will
11 disregard it. And if you violate by my instructions again,
12 Ms. Habba, you may have consequences.

13 MS. HABBA: I'm -- I'm --

14 THE COURT: Don't tell me. Just continue with your
15 argument.

16 MS. HABBA: As I predicted -- I'm trying to.

17 THE COURT: In accordance with the rules.

18 MS. HABBA: As I predicted on day one, Ms. Carroll has
19 failed to show that she is entitled to any damages at all. If
20 you will recall, throughout this trial Ms. Carroll and her team
21 kept talking about a White House denial that was contained in
22 *The Cut* article. A White House denial in an article that
23 Ms. Carroll read, helped write, approved for dissemination and
24 had financial gain and then helped spread all over social media
25 with media appearances. A statement issued by the White House,

01QQcar2

Summation - Ms. Habba

1 not president Trump, which you've never seen and which
2 Ms. Carroll never sued over. That's why they haven't brought
3 it up. It's not part of this suit. This is a distraction.
4 They need to do that because they have a gaping hole in their
5 case. Ms. Carroll cannot prove causation. Let's focus on the
6 chain of events.

7 Ms. Carroll decided to give her story to *The Cut*
8 because she thought they - I quote - "knew how to break the
9 news." She was looking to make a splash, and she wanted to
10 spread her story as far and wide as possible. That is her job,
11 after all.

12 On June 21, 2019 at 12:14, the article that she put
13 out with *The Cut* goes live and ignites a media storm. They're
14 right about that. President Trump, however, did not respond or
15 know about it and her allegations for another five hours. He
16 was busy running the country. And during that gap, the
17 internet did exactly what Ms. Carroll had expected and hoped:
18 It reacted. A flood of tweets were directed at Ms. Carroll,
19 and the responses were as polarizing as you would expect,
20 again, before president Trump even made a statement. There
21 were many messages of love and support. She testified to that.
22 And there were also a swarm of attacks, but it was before he
23 made his first statement five hours later. And after his
24 statement, they are nearly identical. This five-hour gap is
25 critical. Plaintiff's counsel tried to get ahead of it by

01QQcar2

Summation - Ms. Habba

1 telling you what my argument is, but I'm going to be very
2 explicit. President Trump did not respond until 5:17 when he
3 released a statement to Laura Litvan on Twitter. These
4 individuals made up their own minds and came up with their own
5 conclusions. In short, they didn't believe her.

6 Remember, despite what plaintiff's counsel said, you
7 are not here to pay Ms. Carroll for people who wrote mean
8 tweets to her. No. They have to prove a direct causal
9 connection between the harm she claims she's suffering and his
10 two statements, one five hours after the article she put out
11 and the second the next day on the South Lawn responding to
12 reporters. Those are the two statements. She has to prove
13 this is because of those two statements. This is my whole case
14 right here. I don't even need to go further, but I can because
15 there's more. There is no causation.

16 In fact, Ms. Carroll under oath acknowledged that
17 president Trump is not at fault for the wave of negative
18 messages she received in the wake of the release of *The Cut*
19 article. Let's look at her own words from this trial. When
20 she said these users were just standing up for the man they
21 admire. Ladies and gentlemen, Ms. Carroll is absolutely
22 correct. The people who speak negatively about Ms. Carroll are
23 not doing it because president Trump denied her story. In
24 fact, as I just showed you, he hadn't even done it yet.
25 They're not doing it because president Trump asked them to or

01QQcar2

Summation - Ms. Habba

wanted them to. They are doing it because they didn't find her story to be credible, and they independently believed she is a liar. This is the beauty and dangers of free speech in America. Everyone is entitled to their opinion. President Trump has no more control over the thoughts and feelings of social media users than he does the weather.

To illustrate this point, let's do a side-by-side comparison of the messages sent to Ms. Carroll before president Trump's response and following president Trump's response.

Here, both of these messages on your screen were sent on June 21, and they both responded to the same tweet by Ms. Carroll. One time stamped at 2:51 p.m., before the president's statement on the left; and one time stamped at 9:29 p.m., after the president's statement. As you can see, these messages share a common theme. They both call Ms. Carroll a liar.

Here is another example. Simply uncanny. Again, these messages were both sent on June 21. The post on the left time stamped 3:22 p.m., before the president's statement; the one on the right 6:09 p.m., after his statement. Both users claim that they believe that Ms. Carroll came out with her allegations to promote her book. Frankly, we heard her friend say the same thing.

Let's look at the next slide. The two tweets express the same sentiment, alleging that Ms. Carroll had political

01QQcar2

Summation - Ms. Habba

1 motives for coming forward with her allegation. The first was
2 posted at 2:21 p.m., again prior to president Trump's
3 statement; while the tweet on the right was posted 18 months
4 after president Trump's statement. In fact, just a month ago.

5 Ladies and gentlemen, this side-by-side comparison not
6 only shows the similar mindset and attitude of these Twitter
7 trolls before and after the president's statement, but that
8 these tweets are sent long after he ever spoke about it. And
9 here's the point: It is Ms. Carroll's burden, not president
10 Trump's, to prove that his statements are somehow the cause of
11 any harm. And clearly she has failed to meet that burden.

12 It's common sense.

13 Now, let's turn to Ms. Carroll's supposed emotional
14 damages that we heard about. Ms. Carroll would like you to

15 believe that she thought, and perhaps even continues to think,
16 that her life is in danger as a result of president Trump's
17 June 21 and June 22 statements. But let's unpack this.

18 Ms. Carroll claims she received hundreds of messages
19 threatening violence since president Trump made those
20 statements, yet she showed you six. Six. Ladies and
21 gentlemen, I received three this week alone. That's me on a
22 good day --

23 MS. KAPLAN: -- objection, your Honor.

24 MS. HABBA: And president Trump --

25 THE COURT: Sustained. Counsel?

01QQcar2

Summation - Ms. Habba

1 MS. HABBA: Yes.

2 THE COURT: That was inappropriate, and the jury will
3 disregard that.4 MS. HABBA: Not only that, but the messages she's
5 shown you all date from 2023. 2023. Four years later. She
6 has a whole legal team here, ladies and gentlemen. 2023. Six
7 threats. That's what they brought you. Oh, and let's not
8 forget the reason she can't show you any from 2019, 2020, 2021,
9 or 2022. The reason she can't show you these messages is
10 because she deleted them, or, alternatively, perhaps they never
11 existed in the first place.

12 (Continued on next page)

13

14

15

16

17

18

19

20

21

22

23

24

25

01Q5car3

Summation - Ms. Habba

1 MS. HABBA: And wait. She did that in the middle of a
2 lawsuit. A lawsuit she brought.

3 So what else isn't true? Either, one, Ms. Carroll is
4 lying to you and those messages never actually existed in the
5 first place; or two, she deleted the very evidence which she
6 now wants you, as a jury, to rely on in support of her claim
7 for damages. But guess what? They're not here. She has to
8 give them to you and they're not here to support her claim for
9 damages and that is a fact.

10 Remember early in this case Ms. Carroll took the stand
11 and told you that she supposedly received death threats on June
12 21, the day The Cut article was released. She dramatically sat
13 there and recounted how she opened up her laptop that night,
14 saw the threats and was put in such a state of "trance" that
15 she started hanging up pants on a window because she thought
16 she was about to get shot. I believe she even ducked on the
17 stand.

18 Ladies and gentlemen, you know what she didn't do?
19 She didn't make her Twitter page private. She wants us to
20 believe that she hung up a bunch of her pants over a window.
21 Wait. Ladies and gentlemen. You know what else she didn't do?
22 She didn't call the police. But she hung the pants. She
23 didn't tell anyone, but folks, she hung the pants.

24 Please focus on the details, not the noise.

25 Ms. Carroll told you the time that she viewed the

01Q5car3

Summation - Ms. Habba

1 messages. That is not something she can prove. She doesn't
2 have them. She hasn't given them to you. But she admitted
3 that she did not know when the messages were sent. So even
4 assuming the messages existed at all it is impossible to link
5 them to President Trump's two statements because they could
6 have been sent before he even issued his statement at 5:17 for
7 which she conveniently cannot prove because she deleted her own
8 evidence. If that's what you believe. It goes to the larger
9 question of causation which has been a consistent theme here.
10 Trial is about proof and hard evidence, not speculation, not
11 emotion, and not misrepresentation. Evidence.

12 When considering Ms. Carroll's claim for emotional
13 harm you should not give her the benefit of the doubt. Due to
14 her own conduct she is unable to demonstrate that she received
15 any threats within the relevant time frame. In her own words,
16 she would just delete, delete, delete. Never called the cops.
17 Never filed a report. Has no evidence. But what did come out?
18 She did state that she was freely walking the streets of New
19 York. In her own words, she felt that midtown is one of the
20 safest places on earth. Her words. Imagine that. She felt
21 afraid in the comfort of her own home but in the heart of the
22 busiest city in the world she felt completely safe, safe enough
23 to walk in a fake orange jumpsuit with a fake Donald Trump and
24 a sign: "Most Hideous Men in New York City Walking Tour."
25

She doesn't look afraid there.

01Q5car3

Summation - Ms. Habba

1 You don't have to believe me. Look at the evidence
2 from her nearest and dearest. Ms. Carroll didn't even tell her
3 closest friends that she was experiencing any fear. We can't
4 deny the facts. There are two versions of E. Jean Carroll:
5 The truth, which her friend knew and testified to, and the one
6 that comes to court to get money from my client. Which do you
7 believe?

8 As you probably learned throughout this trial,
9 Ms. Carroll has never been shy about sharing her feelings.
10 She's a truth-teller. Yet, when she knew that Carol Martin's
11 daughter had significant concerns for her mother's safety, a
12 close friend for over 30 years to Ms. Carroll, she repeatedly
13 assured her that there were no major security concerns. In
14 fact, it is the opposite of concern. Her words. Dwell on that
15 for a moment.

16 If Ms. Carroll was really, truly experiencing the raw
17 visceral fear that she wants you to believe, wouldn't she have
18 immediately shared those concerns with Carol Martin and her
19 daughter so that they could have protected themselves? Not lie
20 to her best friend in a group text so that she doesn't upset
21 them. It just doesn't add up.

22 Even if you believe Ms. Carroll that she really and
23 truly feared for her safety because of the e-mails she
24 received, she still has not shown what she needs to show: That
25 President Trump is the reason she received them.

01Q5car3

Summation - Ms. Habba

1 Ladies and gentlemen, you heard him testify. You
2 heard him say he did not intend to hurt her. Pure and simple.
3 We do not know the true identities of the people that sent the
4 messages to Ms. Carroll. We know nothing of their motivations,
5 their intentions. All we know is that the people who made
6 these death threats are sick individuals whose messages should
7 be universally condemned. I agree with that and I think all of
8 us do. But, President Trump should not have to pay for their
9 threats. He does not condone them. He did not direct them.
10 All he did was tell his truth.

11 MS. KAPLAN: Objection, your Honor.

12 THE COURT: I will deal with it in my charge.

13 MS. HABBA: At the end of the day, the evidence shows
14 that Ms. Carroll did not actually suffer any emotional harm.
15 Sure, she tugged on your heartstrings at some points by showing
16 that negative tweets were sent her way. And, it is awful. And
17 she told you that her feelings were hurt by some of those
18 people's comments. I don't blame her for one bit. My feelings
19 would be hurt, too. But that's what happens when you are a
20 public figure.

21 Ms. Carroll knew that this backlash would come and she
22 was doing just fine in the days following the president's
23 statements. In fact, she was happier than ever. Don't take my
24 word for it, just ask E. Jean. She said that she was fabulous,
25 buoyant, only a week after President Trump made his statements.

01Q5car3

Summation - Ms. Habba

1 She told *Vanity Fair* that the support she received when walking
2 down the streets was incredibly heartwarming. She publicly
3 stated that this is probably one of the most carefree and happy
4 times of her life. She said she was in a cocoon of love. And
5 when she came on the stand, the courtroom E. Jean testified
6 that she felt warmth and she enjoyed it immensely. Does this
7 sound like a woman whose world has come crashing down around
8 her? Does this sound like a person who can't sleep at night?
9 Whose life was shattered? No. This is a woman who was
10 exuberant and enjoying the new-found attention she was
11 receiving and still receives after taking a hit in her
12 professional career before her story ever came out.

13 She was happy to have the support, the fame, and the
14 praise that she has always craved. And not only did she
15 express it publicly, she expressed it privately, too. The very
16 next day, after President Trump's first statement, she
17 reassured Lisa Birnbach, her longtime friend who Ms. Carroll
18 describes as a very good friend of 33 years, that she was fine
19 as wine. That she slept until noon. She didn't think you'd
20 see that, ladies and gentlemen. That's her best friend. On
21 the stand she recanted her prior testimony, suddenly claiming
22 that it wasn't true.

23 So, to recap, Ms. Carroll told her personal friend in
24 a private communication that she was feeling great but this
25 week she wants you to believe it is all a lie.

01Q5car3

Summation - Ms. Habba

1 Who is E. Jean? We have now established that
2 Ms. Carroll didn't suffer emotionally from the president's
3 statements and now I will establish that she hasn't suffered
4 professionally.

5 She didn't lose her followers, her advice articles,
6 because of my client. That's been another misleading
7 representation. She lost them because she doesn't work for
8 *Elle* anymore. That happened, conveniently, before she decided
9 to come out with this story. That's why -- that's why -- she
10 doesn't have *Elle*'s 4.5 million people's views. She doesn't
11 have that anymore. That was before all of this. Right before
12 all of this, actually.

13 MS. KAPLAN: Objection, your Honor. That's not the
14 evidence.

15 THE COURT: Sustained. The jury will remember the
16 evidence.

17 MS. HABBA: We have now established that Ms. Carroll
18 didn't suffer emotionally from the president's statements and
19 she certainly hasn't suffered professionally. When Ms. Carroll
20 came forward, she knew that some people wouldn't believe her
21 account, regardless of what President Trump had to say. She
22 took that responsibility because she knew that when she came
23 forward, she would receive universal praise from President
24 Trump's critics.

25 Remember, Ms. Carroll told you that status is very

01Q5car3

Summation - Ms. Habba

1 important to her. She testified that improving her status was
2 the reason she brought the suit. She knew that the media cycle
3 would eat it up and that's exactly what happened. She
4 capitalized on her newfound fame. She made rounds on the media
5 after his denial. Rounds on the media. Ms. Kaplan says it is
6 in self-defense but I guess it is not OK when my client says
7 what he has to say.

8 She drew more attention to herself. Remember her book
9 titled: *What Do We Need Men For?* It contains nine pages about
10 President Trump -- Ms. Kaplan is right -- nine pages. Do you
11 know how many times she said he was named? One time. One
12 time. One single time. And yet, those nine pages become the
13 central focus of each of her media appearances ranging from
14 books and articles to podcasts discussing her allegations.
15 But, it is not E. Jean's fault, that's just what they asked her
16 about. Ms. Carroll is a journalist. Her friends do TV. She
17 knew what she was doing.

18 Look at this image here. She is posing with a Trump
19 impersonator. She clearly has no problem using President Trump
20 to promote herself, her brand, and sell some books.

21 I asked her on the stand if she planned on doing TV
22 after this. She didn't say no.

23 MS. KAPLAN: Objection, your Honor.

24 MS. HABBA: That's in the record.

25 THE COURT: The jury will have to remember. I don't

01Q5car3

Summation - Ms. Habba

1 remember.

2 MS. HABBA: She also, as we showed, never had any
3 problems tweeting away about sex, penises, and a myriad of
4 other topics you wouldn't want to talk about in front of your
5 parents or children. In fact, topics most persons would find
6 disgusting if spoken about publicly. But Ms. Carroll would
7 have you believe that her reputation was pure, angelic, and
8 perfect.

9 MS. KAPLAN: Objection, your Honor.

10 THE COURT: Overruled.

11 MS. HABBA: And if there is no reason that anyone
12 would criticize her, no reason at all. "What Do We Need Men
13 For?" was the title of her book.

14 To highlight a couple of examples, Ms. Carroll tweeted
15 on November 25, 2015, the following: *How do you know your*
unwanted sexual advance is unwanted, until you advance it? Top
16 left, ladies and gentlemen. Read that. *How do you know your*
unwanted sexual advance is unwanted, until you advance it? The
17 victim, this is her tweet. November 25, 2015. By the way, it
18 is still on her Twitter account, I asked her that.

19 MS. KAPLAN: Objection, your Honor.

20 THE COURT: What is the objection?

21 MS. KAPLAN: Use of the word "victim" implying that
22 the underlying assault didn't happen.

23 THE COURT: Yes; sustained.

01Q5car3

Summation - Ms. Habba

1 MS. HABBA: Another tweet posted on March 6, 2023,
2 bottom right: *What can be done about the penis? It gets large*
3 *when you want it small, and it stays small when you want it*
4 *large.* I am honestly mortified, ladies and gentlemen of the
5 jury, that I have to repeat this in front of you. I apologize.

6 And: *Any ideas on how to dominate a man?*

7 Dominate a man. Advance an unwanted sexual advance.
8 Her tweets, sitting on her Twitter page as we sit here today.
9 She didn't take them down. These are just four tweets. *A chap*
10 *is not a mind reader. Show him what you like or he will soon*
11 *regret he even has a penis.* Oh my gosh, did she threaten
12 someone? He will soon regret he even has a penis. Folks, that
13 was in 2013, that was before she decided to do all this.

14 MS. KAPLAN: Objection, your Honor.

15 THE COURT: I'm sorry?

16 MS. KAPLAN: Same objection, your Honor.

17 THE COURT: Sustained.

18 MS. HABBA: These are four tweets. Ms. Carroll put
19 these into the world years before June of 2019. She still has
20 them, they're still up. So the fact that she is now somehow
21 taken aback or offended that tweets from random people made her
22 look scandalous is simply disingenuous. Ms. Carroll's claim
23 rests on the idea that more people hate her than they love her
24 but has she proven that?

25 MS. KAPLAN: Objection, your Honor.

01Q5car3

Summation - Ms. Habba

1 THE COURT: I'm going to overrule it but I will
2 instruct the jury on that point.

3 MS. HABBA: Numbers don't lie. Take a look at this.
4 These are the tweets and the views all sent to Ms. Carroll just
5 a month ago. I'm going to start from the top left. 26 views.
6 views. 5 views. 15 views. 9 views. 12 views. Ladies and
7 gentlemen, this is what her legal team picked to show you her
8 damage. I didn't pick them.

9 As you can see, the total number of views of all these
10 tweets that they feel best represents their case displayed in
11 this slide were sent to Ms. Carroll, is a total of 143 views.
12 They didn't draw your attention to the views. That is the
13 grand sum of the views they submitted into evidence. That's
14 not evidence of reputational harm for a woman who has posts
15 with a slide of 3.9 million views when she talked about my
16 client. "We Won" 3.9 million views. She's enjoying this.

17 Let's not forget the fact that Ms. Carroll is making
18 more money today than she did in June of 2019 before she
19 brought this up. In fact, when she decided to go public with
20 her allegations decades after the alleged event, which she has
21 not pinpointed to the year, she hit financial and social rock
22 bottom. *Elle* magazine chopped her income in half to sixty
23 grand. There were no more dinners at Elaine's.

24 MS. KAPLAN: Objection, your Honor.

25 MS. HABBA: There was no more fancy nights on the town

01Q5car3

Summation - Ms. Habba

1 and no more fame; just a cottage in the woods in New York, just
2 like Montana, which she couldn't wait to leave.

3 So, in 2019 she found her way out. She wrote a book
4 which Ms. Kaplan just reminded me she had been writing for
5 years, and years, and years, but until 2019 decided to put
6 Trump when he was sitting in the Oval Office.

7 MS. KAPLAN: Objection, your Honor. I said nothing of
8 the sort.

9 THE COURT: The jury will remember the evidence.

10 MS. HABBA: Thank you.

11 So, in 2019 she writes the book. She decides to add
12 President Trump. She sat in her cabin, far from the glamour of
13 New York that she was desperate to crawl out and back to so she
14 made her way. All of a sudden, the release of *The Cut* article,
15 she is making a lot more money now and does not include any
16 income she received from royalties from her books. You heard
17 her. She got publicists paid for by lawyers, publishers,
18 parties, dinners, lunches with journalists again, and let's not
19 forget the many primetime shows all discussing my client. She
20 alleges she doesn't like to mention his name but yet she has
21 been going on TV for years, and years, and years talking about
22 one man, and one man alone, and making money, making money off
23 of him, selling her book off of him, and that is my client.

24 Now, not only is she making more money than she was
25 before these allegations, she is back to the lavish lifestyle,

01Q5car3

Summation - Ms. Habba

1 she is living the life of the rich and famous, hanging out with
2 celebrities, Kathy Griffin. Getting tweets of acclaim from
3 Alyssa Milano, Jamie Lynn [sic] Curtis, Ron [sic] Reiner. All
4 her circle. Her new circle like Elaine's all over again. And
5 why? Because she made an allegation in the most public forum
6 by design, an allegation that my client has continuously and
7 consistently stated his position. It is an American right.

8 MS. KAPLAN: Objection, your Honor.

9 THE COURT: Sustained.

10 Members of the jury, I instructed you previously and I
11 will instruct you again, it is conclusively determined who is
12 telling the truth about the event, that is to say, whether
13 Mr. Trump sexually attacked or assaulted Ms. Carroll or not.
14 It's established. You must accept that.

15 MS. HABBA: It is established by a jury. You're
16 right, your Honor.

17 THE COURT: It is established and you will not quarrel
18 with me.

19 MS. HABBA: I'm not.

20 THE COURT: You will finish your summing up.

21 MS. HABBA: I am finishing it, your Honor.

22 Listen to her good friend of 30 years Carol Martin.
23 She came up and told you she believed Ms. Carroll is a
24 narcissist. She admitted that she had met with Ms. Carroll's
25 legal team and her lawyers, not me. My witness. She had met

01Q5car3

Summation - Ms. Habba

1 with them. She gave us some definition of narcissism I have
2 never heard in my life, probably because she was embarrassed.
3 I would be embarrassed if my best friend saw what I really
4 thought of them and I was upset with them and I put that in
5 writing. That's not all she said. She also said she was
6 suspicious of her motives, her best friend. She said she
7 considered downsizing her relationship with E. Jean Carroll,
8 that Ms. Carroll loves the adulation from this lawsuit, that
9 she was acting a little scary, that she believed that she was
10 acting like Santa at the Christmas Parade. And how can we
11 forget her best friend said that Ms. Carroll is a drug addict
12 and the drug is herself. Those are not my words, those are her
13 best friend's words in a communication that she never thought
14 you would see.

15 Ms. Carroll testified that the reason she brought this
16 lawsuit is to get her old reputation back. Do you actually
17 think Ms. Carroll wants her old reputation back, ladies and
18 gentlemen? Does she want to go back to the cabin with 12,000
19 followers on Twitter? Does she want to forego the
20 opportunities her new reputation has afforded her? Does she
21 want to make less money?

22 I asked her: After this, are you done? She didn't
23 say no. She doesn't want her old reputation back, she wants --
24 she was desperately yearning for her old life. This was a
25 woman with nothing to lose and, as we have seen, everything to

01Q5car3

Summation - Ms. Habba

1 gain.

2 I have to admit, this is my favorite part of my
3 closing: Ms. Humphreys.4 Ms. Carroll and her legal team had an opportunity to
5 bring an expert. They picked Ashlee Humphreys. Throughout her
6 testimony it became so clear that her opinion is neither
7 credible nor reasonable and I'm going to walk you through it.8 She admitted her report was riddled with mistakes and
9 tried to pawn it off on her poor team that did the research as
10 a labeling error. Labeling error. Years and years and years
11 of litigation, tens of thousands of dollars to her benefit, and
12 this so-called expert can't catch 17 numerical errors that we
13 caught?

14 MS. KAPLAN: Objection, your Honor.

15 THE COURT: Sustained.

16 MS. HABBA: I --

17 THE COURT: Sustained.

18 MS. HABBA: And that is just what we found. Just
19 based on that you should ignore her testimony as a whole, but
20 let's continue for fun.21 The five-hour gap. Remember the five-hour gap?
22 12:15-5:17, we have a gap. We already know that Ms. Carroll's
23 story had received widespread attention before President Trump
24 ever spoke about her but did Humphreys account for that? Of
25 course not.

0105car3

Summation – Ms. Habba

Her entire model relies on a faulty assumption. Remember, her model is based on the fact that she believes E. Jean Carroll's reputation was harmed with republicans after she attacked president Donald Trump. You will recall her testimony. She said republicans were more likely not to believe, especially Trump supporters, Ms. Carroll, than non-republicans. Tens of thousands of dollars to this expert.

Ladies and gentlemen of the jury: Duh. Duh. Thank you, Ms. Humphreys.

In fact, her own data undermines her position. She wants you to believe that President Trump's statements branded Ms. Carroll as a liar and ruined her reputation with the public, but when we looked at all of her report it was affiliated with her reputation, all of her report. I asked her, where is the word "liar"? Where is the word "liar"?

MS. KAPLAN: Objection, your Honor.

THE COURT: What is the objection?

MS. KAPLAN: A, it is there; and B, this has nothing to do with her opinion on that.

THE COURT: Overruled.

MS. HABBA: Thank you.

I will show you where it is. That was my next point.

Thank you, Ms. Kaplan, we have highlighted it for you.

24 Do you see it? that little word: "Lying." I am sure
25 you will recall what she said is this is actually

01Q5car3

Summation - Ms. Habba

1 proportionate, the words in size, to how much they came in and
2 out when she searched. That's proportionate. "Lying." Do you
3 know what else guys is that size? Is "Cohen." "Money."
4 "Cohen." Not Michael Cohen, "Cohen." That's the same size.

5 While she uses some fancy terminology to get there her
6 conclusion is essentially Trump supporters were more likely to
7 believe Trump while non-Trump supporters are more likely to
8 believe Ms. Carroll. But she didn't look at the ones that
9 support her. She said that. I don't think you need an expert
10 to make that point, ladies and gentlemen. But what Professor
11 Humphreys never explains is how President Trump's denial did
12 anything to change the equation. She didn't even look at the
13 gap. She didn't even notice that this was happening before he
14 even said anything.

15 People are entitled to their opinions and many did not
16 believe Ms. Carroll before he even uttered her name. So how do
17 they want you to fix it? You just heard it, it was epic. Give
18 her a ton of money to launch some academic philosophy called a
19 reputational repair campaign.

20 OK. Fair enough. Let's walk down that for a moment.

21 There are PR firms that may be able to do that. So,
22 did this so-called expert even reach out to one of them to get
23 an estimate? You will recall I asked her, did you actually get
24 an estimate? She said none. She came in to this courtroom,
25 after being paid a ton of money with all her labeling errors,

01Q5car3

Summation - Ms. Habba

1 and she couldn't even make a phone call. She said her students
2 have gone on to work there, she hasn't. In fact, we challenged
3 her knowledge on costs and she admitted she had no idea.

4 MS. KAPLAN: Objection, your Honor.

5 THE COURT: Sustained.

6 MS. HABBA: Professor Humphreys admitted she never
7 executed a reputational repair program in her life. Their
8 expert, the one that came up with the numbers they just put up,
9 she doesn't deny it. And said it repeatedly throughout her
10 testimony. In fact, when asked about it, Martha Stewart,
11 Justin Bieber, Taylor Swift; she said I read it in the news.

12 She thinks -- and this was epic, this might have been
13 my favorite moment -- that Joe Rogan and Candace Owens should
14 be paid to help Ms. Carroll fix her reputation.

15 What planet are we living on?

16 One final thing about Professor Humphreys. We learned
17 something very telling that she didn't think I would notice.
18 She changed her account settings on her social media to private
19 weeks before this trial. She was worried about the natural
20 backlash that this high-profile trial would cause. She
21 knowingly changed her settings, something Ms. Carroll could
22 have done, but she chose not to do it. She actively sought the
23 comments and the attention.

24 Ladies and gentlemen, imagine you are living your
25 life, you have a beautiful family, a wife, kids, and you have a

01Q5car3

Summation - Ms. Habba

1 very serious job to do. You work long days and long nights and
2 all of a sudden you are hit with an allegation. There are no
3 facts --

4 MS. KAPLAN: Objection, your Honor.

5 MS. HABBA: -- that you understand --

6 THE COURT: Sustained.

7 MS. HABBA: OK.

8 THE COURT: Move along.

9 MS. HABBA: I -- she doesn't even know why I said
10 there are no facts so I would like to finish my thought.

11 There are no facts --

12 MS. KAPLAN: Objection, your Honor.

13 MS. HABBA: -- in the record --

14 THE COURT: Move on to a subject different than you
15 are embarking upon.

16 MS. HABBA: OK.

17 Ladies and gentlemen, in our country you have the
18 right to speak. You have a constitutional right to speak.

19 MS. KAPLAN: Objection, your Honor.

20 THE COURT: Sustained.

21 You have a constitutional right to some kinds of
22 speech and not others.

23 MS. HABBA: The facts, ladies and gentlemen, the proof
24 they gave you, despite all of the noise, all of the noise and
25 there has been a lot of noise, facts speak volumes here.

01Q5car3

Summation - Ms. Habba

1 Ms. Carroll loves her new reputation and her life. My client
2 is not enjoying this. You have heard the objections. You have
3 heard me be told to sit down --

4 MS. KAPLAN: Objection, your Honor.

5 MS. HABBA: -- but I'm here as a lawyer defending my
6 client. He has a right to defend himself.

7 MS. KAPLAN: Objection, your Honor.

8 THE COURT: Move on, counsel.

9 MS. HABBA: I have got one more sentence, your Honor.

10 Ladies and gentlemen, this isn't about President Trump
11 and E. Jean Carroll. This is about some people in their
12 mother's basements who will always be mean on social media. We
13 can't stop that. And you are not going to stop it by further
14 harming my client. Ms. Kaplan said she has not been made
15 whole. That is a complete misrepresentation. We had a trial,
16 the judge continuously reminds me. We had a trial --

17 MS. KAPLAN: Objection, your Honor.

18 MS. HABBA: -- that trial is done. She was made
19 whole.

20 MS. KAPLAN: Objection, your Honor.

21 THE COURT: Sustained.

22 MS. HABBA: I want to thank you for your time. And
23 I'm sorry that you had to spend so much time on this, yet
24 again.

25 MS. KAPLAN: Objection, your Honor.

01Q5car3

Rebuttal - Ms. Crowley

1 MS. HABBA: Thank you.

2 THE COURT: Thank you, Ms. Habba.

3 Are you ready?

4 MS. CROWLEY: Yes, your Honor. Thank you.

5 THE COURT: We will hear rebuttal argument.

6 Ms. Crowley, you may proceed.

7 MS. CROWLEY: Thank you.

8 So I have been sitting here listening to Ms. Habba's
9 argument and I think we need to reset a little bit, to rewind
10 this discussion. I am going to try to get things back on
11 track, and when I do that I'm going to follow the rules of this
12 courtroom, a thing that Mr. Trump and his lawyer doesn't seem
13 to be able to do.

14 MR. MADAIO: Objection.

15 MS. HABBA: Objection.

16 THE COURT: Sustained.

17 MS. CROWLEY: Ms. Habba just stood up here and
18 repeatedly misstated the evidence and manipulated the facts. I
19 have just a couple examples of that, I honestly wasn't able to
20 write them all down.21 First, at some point I think she said that
22 Ms. Carroll -- she put up a slide talking about Ms. Carroll's
23 salary back in 2019 before her book was released. That slide
24 was totally misleading and wrong.

25 MR. MADAIO: Objection.

01Q5car3

Rebuttal - Ms. Crowley

1 THE COURT: Overruled.

2 MS. CROWLEY: It left out all of the paid
3 opportunities that Ms. Carroll was getting back in 2019 before
4 the former president defamed her like freelance, like TV spots,
5 like articles in other magazines. You can find that testimony
6 at page 183 of the transcript. Ms. Habba conveniently left it
7 out.

8 Another thing that she got wrong, she said that
9 Ms. Carroll left *Elle* magazine before she started writing her
10 book.

11 MR. MADAIO: Objection.

12 THE COURT: Sustained.

13 The jury will remember what the evidence is on that
14 point.

15 MS. CROWLEY: And the jury can look at the transcript,
16 page 180, line 7, to know when Ms. Carroll actually left *Elle*
17 magazine.

18 Ms. Habba said over and over again -- this is another
19 example -- that there was a five-hour gap in time between when
20 the *New York* magazine article was released and Donald Trump
21 made his first defamatory statement. I am going to talk about
22 this in a second but there is actually no evidence of that
23 five-hour gap of that time period, it is something Ms. Habba
24 said --

25 MR. MADAIO: Objection.

01Q5car3

Rebuttal - Ms. Crowley

1 THE COURT: Overruled.

2 MS. CROWLEY: -- but again, what Ms. Habba said is not
3 evidence. She also said that there was a flood of tweets
4 during that five-hour gap. She showed you five. She showed
5 you five tweets.

6 MS. HABBA: Objection.

7 THE COURT: Now, one lawyer, and one alone.

8 MS. HABBA: I'm sorry.

9 THE COURT: Who is it?

10 MS. HABBA: Michael.

11 MR. MADAIO: Your Honor, I object.

12 THE COURT: I didn't hear you or see you stand up.
13 Overruled.

14 MS. CROWLEY: Just one other example of one of the
15 many things that Ms. Habba just got wrong. She said this is a
16 small example but I think it matters. She said that
17 Ms. Carroll was paid for the article in the *New York* magazine.
18 That's not true.

19 MR. MADAIO: Objection.

20 MS. CROWLEY: Page 216, line 11.

21 THE COURT: Overruled.

22 MS. CROWLEY: She says that the money went to her
23 publisher, she didn't get any money at all.

24 Those are just a couple of examples but they tell you
25 everything that you need to know about Ms. Habba's argument and

01Q5car3

Rebuttal - Ms. Crowley

1 their whole defense: You can't trust it. So, I would like to
2 just take the next couple minutes -- I'm going to be brief, I
3 promise, but I want to take the next couple minutes just to
4 remind you why we are actually here.

5 Donald Trump sexually assaulted E. Jean Carroll and
6 then he lied about it --

7 THE COURT: Excuse me, counsel.

8 I have told counsel to remain seated and they
9 continually get up and walk back and forth and are distracting.

10 Proceed.

11 MS. CROWLEY: Thank you, your Honor.

12 Why we are here, Donald Trump sexually assaulted
13 E. Jean Carroll and then he lied and he defamed her over and
14 over again after she came forward. That has been proven.

15 MR. MADAIO: Objection.

16 MS. CROWLEY: He did those things.

17 THE COURT: Overruled, Mr. Madaio.

18 MS. CROWLEY: And yet, you just heard his lawyer stand
19 up here and say that even though he did those things, even
20 though Donald Trump does whatever he wants, any harm
21 Ms. Carroll suffered is her fault for speaking out and then
22 defending herself when he lied and came after her.

23 Ladies and gentlemen, you know what that sounds like.
24 You have heard it before. *She asked for it. She knew what she*
25 *was doing and she asked for it.* And I have to ask, are we

01Q5car3

Rebuttal - Ms. Crowley

1 really still doing that? Are we really not moved past that
2 idea? I think we have. I think we can all agree that by
3 coming forward and telling the truth, the proven truth about
4 what Donald Trump had done to her, Ms. Carroll did not ask to
5 be called a liar. She did not ask to be called ugly. She
6 didn't ask for death threats. She didn't ask to be accused of
7 lying, of making up a story for money.

8 Ms. Carroll didn't ask for those things. She came
9 forward because she thought she decided it was finally time to
10 speak publicly about what he had done to her.

11 She gave interviews on TV because she had to defend
12 herself when he came after her and she brought this lawsuit to
13 try to get him to stop. The defense seems to be saying, they
14 seem to be arguing that at the end of the day, this case is
15 just about two people disagreeing with each other in a public
16 forum. I think Ms. Habba just used the phrase: What is good
17 for thee is not good for me.

18 Nonsense. You can't equate their conduct.
19 Ms. Carroll and Donald Trump are not doing the same thing here.

20 When Ms. Carroll came forward to reveal that she had
21 been sexually assaulted by Donald Trump, she was telling the
22 truth and the law protects her from being defamed for telling
23 the truth.

24 When Donald Trump told those defamatory lies about
25 Ms. Carroll, he was breaking the law. And he is still breaking

01Q5car3

Rebuttal - Ms. Crowley

1 the law, literally, to this day.

2 MR. MADAIO: Objection.

3 THE COURT: Overruled.

4 MS. CROWLEY: The fact that Ms. Carroll truthfully
5 said that Donald Trump sexually assaulted her of course does
6 not give him permission to break the law. That is not just
7 some innocent version of defending himself that Ms. Habba just
8 tried to sell you on.

9 Ms. Carroll didn't ask for the bad things that
10 happened after Donald Trump went after her and she is not the
11 reason that they happened. Donald Trump is the reason. He is
12 responsible for it.

13 Now, the defense also seems to be trying to persuade
14 you that Ms. Carroll is better off now, that she has somehow
15 benefited from Donald Trump defaming her. First, I expect that
16 Judge Kaplan is going to tell you that is just not the law.
17 Another thing that Ms. Habba just got wrong. Nonetheless,
18 Ms. Habba said in her opening, and then again today, that
19 Ms. Carroll likes her new brand.

20 I have to ask, what brand is that? Is it the
21 I-was-paid-to-falsely-accuse-the-president brand? Or is it the
22 I'm-a-whack-job-who-made-up-a-story-to-sell-books brand?
23 They're saying that's the brand that Ms. Carroll wants and not
24 the brand that she had back in 2019 before he came after her?
25 The brand of being a writer for the world's largest women's

01Q5car3

Rebuttal - Ms. Crowley

1 fashion magazine? Or having the longest running advice column
2 in history? Writing for SNL? Appearing on primetime TV?
3 Being nominated for an Emmy? Of course Ms. Carroll prefers the
4 brand she had before Donald Trump defamed her. Of course she
5 would rather be known as a writer than a liar and a fraud.

6 Now, look. There is no denying that more people know
7 who Ms. Carroll is now than back in 2019. She told you that.
8 When you make an allegation against the sitting president and
9 he uses his massive megaphone to go after you, more people are
10 going to know who you are. And it's also true that there are
11 many people who support Ms. Carroll for coming forward and
12 taking on Donald Trump. And yeah, that includes some
13 celebrities. Obviously that support makes her feel good at
14 times, it makes her feel protected, and sometimes it even makes
15 her feel happy. But, the idea that the positive attention that
16 Ms. Carroll has gotten somehow cancels out the harm that Donald
17 Trump has caused for years, that's nonsense.

18 Ms. Carroll told you that what matters most to her,
19 what she wants her brand to be, is helping people. She wants
20 to be a trusted advice columnist who helps people solve their
21 problems and that is what she was. But you can't really be a
22 trusted advice columnist if there are tons of people who think
23 you are a liar because the former president told them that you
24 are. And that is true whether or not there are other people
25 who may think you're great. Trustworthy, honest, respected.

01Q5car3

Rebuttal - Ms. Crowley

1 That is the brand that Ms. Carroll wants and it is the brand
2 she had before Donald Trump came after her.

3 And by the way -- by the way -- while we are talking
4 about brands, let's talk about the brand that actually matters
5 here: Donald Trump's brand. This case, one of the questions
6 that you have to decide is whether he acted with malice when he
7 made those statements. And what could be more on-brand for
8 Donald Trump than malice. You saw what he has said about her
9 over and over again, dripping with malice, with hate. Think
10 about that when you go deliberate on how much it will take to
11 get him to stop.

12 Now, I think that we can all agree it has been said by
13 many of the lawyers that this case is not about sexual assault.
14 It's about defamation. It is not about assault but that does
15 not mean -- that does not mean -- that they get to pretend --
16 that the defense gets to pretend that the assault didn't
17 happen --

18 MR. MADAIO: Objection.

19 THE COURT: Overruled.

20 MS. CROWLEY: -- because that is what Ms. Habba was
21 trying to do. She is suggesting that Donald Trump had a right
22 to say those things back in 2019 because he had been accused of
23 a sexual assault that didn't happen, that he had a right to lie
24 in order to defend himself. Or, to use her words: *To tell his*
25 *truth.* Ladies and gentlemen, his truth was a lie and he had no

01Q5car3

Rebuttal - Ms. Crowley

1 right to say it. That may be how Donald Trump lives his
2 life --

3 MR. MADAIO: Objection.

4 THE COURT: Overruled.

5 MS. CROWLEY: -- telling a truth that is a lie, but it
6 is not how it works under the law. The sexual assault happened
7 and Donald Trump had no right to say otherwise, not back in
8 June 2019 --

9 MR. MADAIO: Objection.

10 THE COURT: Overruled.

11 MS. CROWLEY: -- not in October of 2022 when he
12 defamed her again, not last week, not yesterday when he sat
13 here in this courtroom and lied under oath. He had no right to
14 do that.

15 MR. MADAIO: Objection.

16 THE COURT: Overruled.

17 MS. CROWLEY: Ms. Carroll's accusation against Donald
18 Trump, the account of the assault that was published in her
19 book, that was true. That has been proven. And when Donald
20 Trump denied that it happened, when he denied knowing who
21 Ms. Carroll was -- which he still does -- he was lying. He is
22 lying.

23 MR. MADAIO: Objection.

24 MS. CROWLEY: He is breaking the law.

25 MR. MADAIO: Objection, your Honor. It is on appeal.

01Q5car3

Rebuttal - Ms. Crowley

1 THE COURT: Overruled, as you well know. Let's go on.

2 MS. CROWLEY: And yet, Donald Trump seems to be
3 suggesting that he had no choice but to defame Ms. Carroll,
4 that she backed him into a corner by telling the truth so he
5 was forced to destroy her. Nonsense. Nonsense.

6 There are ways for people to lawfully respond to an
7 allegation that is true. You could say nothing. You could
8 say: *This is a private matter and I'm going to address it*
9 *privately.* You could say: *This happened a long time ago and*
10 *I'm sorry for it and it is not the man that I am today.* You
11 have certainly seen those types of statements from public
12 figures before. By the way, if he had done that, if he had
13 stayed silent or if, God forbid, he told the truth, do you
14 honestly think that any of the terrible things that have
15 happened to Ms. Carroll in the last five years would have come
16 to pass? If Donald Trump had followed the law and not defamed
17 Ms. Carroll, do you really think that people would have come
18 after her the way they did, calling her a liar? A paid
19 democratic operative? A fraud? Too ugly to sexually assault?
20 Of course not.

21 When the president speaks, the world listens. And as
22 we have seen the statements, the hate mail, the threats that
23 she has gotten, they parrot Donald Trump's words. Causation?
24 There couldn't be clearer proof of causation. If Donald Trump
25 hadn't lied, if he hadn't defamed her, Ms. Carroll's life, it

01Q5car3

Rebuttal - Ms. Crowley

1 would have gone on. Her career would have continued and she
2 wouldn't be flooded with hate and threats and we wouldn't be
3 here today.

4 So, yes, this case it is not about sexual assault, it
5 is about defamation, defamation of a woman who has been
6 sexually assaulted. Defamation by the man who sexually
7 assaulted her. And yet, Ms. Habba faults Ms. Carroll for not
8 being miserable all the time. I guess her argument is that she
9 must not have actually suffered because she's had some happy
10 moments in her life.

11 MR. MADAIO: Objection.

12 THE COURT: Overruled.

13 MS. CROWLEY: And I have to say, this is a bizarre
14 argument. It is like they're suggesting that Ms. Carroll has
15 to show that she has been a broken wreck of a person every
16 single day for the last five years, that she's had no moments
17 of joy or friendships. In the defense's view, every time
18 Ms. Carroll went to a party with friends, or celebrated a
19 victory in her lawsuit against him, or presented a brave face
20 to the public, she was somehow showing that his defamatory
21 statements caused her no harm and this case is just some big
22 conspiracy against him. That makes no sense and I guess it is
23 totally inconsistent with how each of you has experienced life.

24 Two things can be true at the same time. You can be
25 wrecked inside and also feel moments of triumph. You can be

01Q5car3

Rebuttal - Ms. Crowley

1 sad and also feel proud when people stand by you. You can feel
2 safe when you are walking around midtown Manhattan and still be
3 terrified when you open your computer and see death threats.
4 You can be hurt, devastated even, and also do your best to find
5 some happiness.

6 Ms. Carroll has friends and admirers who appreciate
7 her bravery in coming forward. And, at times she has found
8 happiness and comfort, and to use her words, a cocoon of love.
9 But those moments of joy don't mean that her life has been easy
10 since June 2019. Far from it. Ms. Carroll may tell people
11 that she is doing fine, even on days when Trump's attacks are
12 bearing down on her, even when she feels scared or sad or laid
13 low by it all. That defiance is a source of strength. It's
14 what gets her up every day. But it also hides an undeniable
15 harm that affects her everyday life and the law entitles her to
16 justice for that harm, even though she is strong.

17 I just have a couple more points. I want to talk
18 about this supposed five-hour gap for a minute because it was a
19 big theme of Ms. Habba's closing and, as I told you at the
20 beginning, there is actually no evidence of the timing of this
21 so-called gap.

22 MR. MADAIO: Objection.

23 THE COURT: I will rely on the jury to look at the
24 evidence carefully.

25 MS. CROWLEY: But, more than that, I just have two

01Q5car3

Rebuttal - Ms. Crowley

1 points about this five-hour gap argument.

2 First of all, it is not disputed that Trump's initial
3 denial of the assault, which was issued by the White House, was
4 published at the same time --

5 MR. MADAIO: Objection.

6 THE COURT: Overruled.

7 MS. CROWLEY: -- was published at the same time as
8 Ms. Carroll's allegation against him.

9 MR. MADAIO: Objection, your Honor.

10 THE COURT: Overruled.

11 MS. CROWLEY: It was in the same exact article. No
12 gap. No gap at all. So, it is no surprise that when people
13 saw that denial --

14 MR. MADAIO: Objection.

15 MS. CROWLEY: -- some of them believed it and thought
16 that Ms. Carroll was lying.

17 MR. MADAIO: Your Honor, this is completely
18 inconsistent with the record.

19 THE COURT: Overruled.

20 MS. CROWLEY: And of course Ms. Carroll didn't sue the
21 White House for that denial, because while the statement was a
22 lie, it didn't go on to accuse Ms. Carroll of being a fraud, a
23 paid operative.

24 MR. MADAIO: Objection, your Honor. She is speaking
25 of a statement that is not in evidence. We don't know what was

01Q5car3

Rebuttal - Ms. Crowley

1 said.

2 THE COURT: I will see you at side bar.

3 (Continued next page)

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

01Q5car3

Rebuttal - Ms. Crowley

1 (At side bar)

2 THE COURT: What are you relying on it being in the
3 record?4 MS. CROWLEY: Your Honor, Ms. Carroll testified that
5 in the same article as -- I'm sorry. In The Cut article there
6 was a denial of the White House which said her account wasn't
7 true. That is the evidence in the record on that denial. What
8 I was saying is just what Trump later said five hours later.9 MR. MADAIO: First of all, your Honor, she testified
10 that she didn't know what the denial said, that she couldn't
11 recall what the language was. And, again, this is a major
12 issue. They're confusing the jury. This White House denial is
13 not at issue here, and even if any --

14 THE COURT: I understand that.

15 MR. MADAIO: Right, but even if anything is
16 attributable to that White House statement, that is not the
17 same as it being attributable to President Trump.

18 MS. CROWLEY: I'm making the exact opposite argument.

19 MR. MADAIO: Your Honor --

20 THE COURT: The objection is overruled.

21

22

23

24

25

01Q5car3

Rebuttal - Ms. Crowley

1 (In open court)

2 THE COURT: The objection is overruled. Continue,
3 counsel.

4 MS. CROWLEY: Thank you, your Honor.

5 It is no surprise that when some people saw that
6 denial in the *New York* magazine article they believed Trump,
7 the president, and thought that Ms. Carroll was lying. And
8 Ms. Carroll, of course she didn't sue the White House or Donald
9 Trump for that denial. Because while it wasn't true, it didn't
10 go on to accuse her of being a fraud, a paid operative, someone
11 who made up an assault for money. It didn't threaten that she
12 would pay dearly for speaking out against Donald Trump. Donald
13 Trump did those things. He said those things. And those are
14 the statements that his followers latched on to. No causation?
15 You saw the messages. Those are the things they repeated when
16 they came after her. Those are the things that they keep
17 saying four years later every time Donald Trump takes to the
18 world stage and repeats his defamatory lies.

19 Ms. Habba just --

20 MR. MADAIO: Objection. Your Honor, the --

21 THE COURT: Overruled.

22 MR. MADAIO: -- phrase defamatory --

23 THE COURT: Pardon me?

24 MR. MADAIO: Defamatory. Speaking about subsequent
25 statements, there has been no collateral estoppel rulings.

01Q5car3

Rebuttal - Ms. Crowley

1 THE COURT: Overruled.

2 MS. CROWLEY: Ms. Habba just showed you a very good
3 example of this. She showed you a message from December 2023,
4 just a couple of weeks ago, where someone yet again parroted
5 Trump's words and came after Ms. Carroll. I appreciate that
6 because, as we all know, Donald Trump started defaming
7 E. Jean Carroll again after the trial --

8 MR. MADAIO: Objection.

9 THE COURT: Grounds.

10 MR. MADAIO: Again, your Honor, they use the phrase
11 "defaming" and "defamatory."

12 THE COURT: Overruled.

13 MS. CROWLEY: The messages you saw from 2023, it makes
14 sense that she was getting those messages, that she was getting
15 that hate mail from 2023. The trial was in 2023. You saw what
16 Donald Trump did the day after the jury reached the verdict.
17 Same lies. Same defamatory statements. Guess what? His
18 followers latched on to them and they came after her. You saw.
19 You heard what he did before and during this trial; same lies,
20 same defamatory statements. And guess what his followers have
21 done. They keep coming after her. No causation? Give me a
22 break.

23 Now, let me just quickly address what Ms. Habba just
24 said about Professor Humphreys. Before I do that, I just want
25 to remind you that she is the only expert witness who testified

01Q5car3

Rebuttal - Ms. Crowley

1 in this case.

2 MR. MADAIO: Objection.

3 THE COURT: Sustained. Excuse me, I misspoke.
4 Overruled, obviously.

5 MS. CROWLEY: The defense didn't call an expert so the
6 estimate that Professor Humphreys gave you, that \$7 million to
7 \$12 million range, that's the only estimate of reputational
8 damages that you heard in this trial.

9 MR. MADAIO: Objection.

10 THE COURT: Sustained. There was other evidence of
11 reputational damage.

12 MS. CROWLEY: That was the only expert testimony.

13 THE COURT: It is up to the jury to decide whether you
14 believe it and credit it and to what extent.

15 Go ahead.

16 MS. CROWLEY: Professor Humphreys was the only expert
17 that you heard testify so you should consider that when you
18 think about the defense's complaints about her. And what are
19 those complaints? I am going to tick through them.

20 Ms. Habba mentioned that Professor Humphreys has never
21 run a reputation repair campaign herself. She's just taught
22 them so she must not actually know how they work. Seriously?
23 That's like saying a journalism professor, who teaches students
24 how to get their stories published, doesn't know how to write.
25 Professor Humphreys' job is to teach graduate students how to

01Q5car3

Rebuttal - Ms. Crowley

1 repair reputations. Her students go on to repair people's
2 reputations. Of course she is qualified to testify about that.

3 Another complaint that they had, I am going to refer
4 to it as the labeling defense. Ms. Habba just mentioned it to
5 you again and you heard her colleague cross-examine
6 Dr. Humphreys about it for like an hour last week. Really? We
7 are talking about labels on a chart. I am sure you remember
8 what actually happened. The labels of some of the TV programs
9 that Dr. Humphreys analyzed changed from her first report to
10 her second -- the labels -- the labels, not the actual data.

11 MR. MADAIO: Objection, your Honor.

12 THE COURT: Overruled.

13 MS. CROWLEY: Not the numbers that actually mattered
14 to her analysis. Those stayed exactly the same.

15 Now, either the defense doesn't understand that or
16 they do and they're trying to mislead you into thinking that
17 this is something that it is not. Either way, you should
18 reject that argument for what it is: A total distraction.

19 (Continued on next page)

20

21

22

23

24

25

01QQcar4

Rebuttal - Ms. Crowley

1 MS. CROWLEY: (Continued) Their last complaint, I
2 guess, is that Professor Humphreys' damages model doesn't count
3 for the positive responses, for the people who believed
4 Ms. Carroll after she came forward in 2019. And the fact the
5 defendant continues to make this argument makes clear that they
6 don't actually understand what Professor Humphreys did in this
7 case. She calculated the number of people who saw Trump's
8 defamatory statements and likely believed them. She then
9 calculated how much it would cost to change those people's
10 minds through a reputation repair program. Of course,
11 Professor Humphreys didn't include in that calculation people
12 who believed Ms. Carroll and didn't believe Donald Trump.
13 Those people don't need to have their minds changed. If she
14 had included them in her estimate, you'd better believe that
15 the defense would be up here complaining that she overcounted.
16 But the professor didn't do that because that's not how this
17 works.

18 The law of defamation is about protecting people from
19 the harms that are caused when other people believe lies about
20 them, and a reputation repair program focuses on fixing that
21 person's reputation among those people. You only have to
22 change the minds of the people who believe the false claims.
23 That's why Professor Humphreys' estimate makes sense. It's why
24 it's reasonable. It's why she's the only expert who testified
25 in this case.

01QQcar4

Rebuttal - Ms. Crowley

1 Now just one more point. Ms. Habba just went on at
2 some length about the fact that Ms. Carroll deleted some of the
3 death threats that she's gotten, and she's somehow arguing that
4 from that deletion Donald Trump is prejudiced. Okay. Let's
5 talk about this because it's one of the many things Ms. Habba
6 got wrong.

7 She cherrypicked some testimony to mislead you into
8 thinking that Ms. Carroll deleted things she was supposed to
9 have kept. But that is wrong. That's not what Ms. Carroll
10 said. You can take a look at that testimony. Ms. Carroll said
11 that she deleted death threats that she got back in June 2019
12 right after Donald Trump came after her, and that she hasn't
13 deleted anything like that since then. So that's just wrong.
14 She got that wrong.

15 MR. MADAIO: Judge, that misstates the testimony.

16 THE COURT: I'm going to sustain the objection in
17 part. I'm not going to detail what part right now. I'm just
18 going to say to the jury, if this matters to you, look at the
19 evidence. You decide.

20 MS. CROWLEY: Ms. Carroll did say at page 232 of the
21 transcript that she did delete some of the nasty replies that
22 she'd gotten from some of the tweets that she's posted more
23 recently, but she had no obligation to keep those. The death
24 threats, the stuff that she got back in June 2019, she had no
25 obligation to keep those either, and I expect Judge Kaplan is

01QQcar4

Rebuttal - Ms. Crowley

1 going to tell you that. There was no lawsuit back then. She
2 wasn't thinking of filing a lawsuit back then. There was no
3 requirement that she preserve anything. She did absolutely
4 nothing wrong by getting rid of those death threats. I think
5 we can all understand why she might not have wanted to keep a
6 bunch of death threats handy. It's not exactly the kind of
7 thing she wants to go back to. Yes, in a flush of panic back
8 in June of 2019, she deleted some messages where people told
9 her that she should be raped or killed. Who wouldn't do that?
10 Who among us hasn't deleted a nasty tweet or email? If
11 something upsets you, you want to get rid of it.

12 But beyond that, what are we actually talking about
13 here? What is this evidence that she supposedly got rid of?
14 It's death threats, death threats from people who believed his
15 lies and expanded on his threats. That is not evidence that
16 Donald Trump would actually want you to see. It's only more
17 damning evidence against him. So, yeah, we agree, Ms. Carroll
18 deleted death threats from back in 2019, and if she hadn't, you
19 would have seen even more evidence of the harm that Donald
20 Trump's caused her.

21 But you don't actually need to see more messages to
22 understand that harm. You've seen enough. You've seen and
23 you've heard how she's gotten messages like this for nearly
24 five years and how they've changed the way she lives her life
25 in many ways. By the way, that's true even when she is having

01QQcar4

Rebuttal - Ms. Crowley

1 moments where she - to use her words - feels fine as wine. She
2 may feel happy. She may feel great. And then she turns on her
3 computer and she sees messages like that, and she gets knocked
4 right back down again. And that happens every time Donald
5 Trump lies about her. She gets more threats. You don't need
6 to see every single one of those to know how much she suffered
7 and to know how much she is going to continue to suffer every
8 time Donald Trump comes after her if he's not stopped.

9 Members of the jury, this trial is almost over.
10 You've heard all the arguments from the lawyers, and now you're
11 going to listen to Judge Kaplan's instructions on the law and
12 then go back to the jury room to deliberate to decide how much
13 money Donald Trump should have to pay for what he did to
14 Ms. Carroll and what he keeps doing.

15 And when you do that, I would ask you to think about
16 what Donald Trump wants you to do here; he wants you to hold
17 Ms. Carroll accountable for the harm she suffered as a result
18 of his actions. Yes, Donald Trump sexually assaulted
19 Ms. Carroll. Yes, he defamed her over and over again. Yes,
20 her reputation suffered. And yes, she gets death threats or,
21 as Ms. Habba called them, mean tweets. But they want you to
22 decide that that's Ms. Carroll's fault; that somehow Donald
23 Trump is the victim here because she never should have come
24 forward in the first place, because she never should have filed
25 this lawsuit, because she should have shut down her social

01QQcar4

Rebuttal - Ms. Crowley

1 media, stopped doing public appearances, stopped writing her
2 advice column. By the way, I want to talk for one second about
3 these so-called salacious tweets that Ms. Habba showed you. I
4 guess her point was to somehow argue that Ms. Carroll deserves
5 the horrible things that people have said to her because of
6 these tweets. Those tweets were questions that readers had
7 sent to Ms. Carroll's advice column. She posted them when she
8 was answering their questions. She was doing her job, but they
9 want her not to do that any more.

10 The defense wants you to decide that the only way
11 Ms. Carroll could have avoided the bad things that have
12 happened to her is by staying silent. Meanwhile, the man who
13 did these things to her, the man who sexually assaulted her, he
14 gets to do whatever he wants. According to the defense, he
15 gets to lie. He gets to threaten. He gets to ignore a jury
16 verdict.

17 MR. MADAIO: Objection.

18 THE COURT: Overruled.

19 MS. CROWLEY: He gets to defy the law and the rules of
20 this courtroom. You saw how he has behaved through this trial.
21 You've heard him. You saw him stand up and walk out of the
22 courtroom while Ms. Kaplan was speaking. Rules don't apply to
23 Donald Trump. He gets to do whatever he wants and use his
24 massive, powerful platform to keep ruining her life. He even
25 believes he gets to testify under oath and lie once again.

01QQcar4

Rebuttal - Ms. Crowley

1 MR. MADAIO: Objection.

2 THE COURT: Overruled.

3 MS. CROWLEY: Ladies and gentlemen, this isn't a
4 campaign rally. It's not a press event. This is a court of
5 law. And it's Ms. Carroll's life. Donald Trump sexually
6 assaulted her. He defamed her. He keeps defaming her. He is
7 not the victim. This is her life. Help her take it back.
8 Make him stop. Make him pay enough so that he will stop.

9 Thank you.

10 THE COURT: Thank you.

11 Members of the jury, what remains in this trial is for
12 me to instruct you on the law. If any of you need a short
13 break, tell me, and we'll take a short break. Otherwise, I
14 will go right ahead, and I'm guessing it will take somewhere
15 between 30 and 60 minutes. Raise your hand if you want a
16 break.17 Okay. Andy, do you want to make the usual
18 announcement.19 DEPUTY CLERK: To all the spectators in the gallery:
20 The Court is about to charge the jury. You either must remain
21 seated throughout the duration of this charge or leave at this
22 time.

23 Marshals, please lock the doors.

24 THE COURT: Members of the jury, we've reached the
25 point in the trial where you are about to perform your function

01QQcar4

Rebuttal - Ms. Crowley

1 as jurors. My instructions are going to be in four parts.

2 First, you are going to receive a verdict form that
3 you will use to address the factual questions that you are to
4 decide pursuant to the law as I give it to you. Second, I will
5 instruct you about the trial process, including the burden of
6 proof. I will instruct you concerning your evaluation of the
7 evidence. And, finally, I will talk to you about your
8 deliberations.

9 Before we do that, let me just say that I sometimes
10 stand up, walk around while I'm instructing a jury, as I'm sure
11 you all appreciate sitting for long periods sometimes is just
12 uncomfortable. Nothing should be read into that.

13 Now, your verdict in this case will be in the form of
14 answers to yes-no questions and questions that ask you to
15 provide, if applicable, dollar amounts. I am going to ask my
16 staff - I don't know who has them; Andy probably has them - to
17 distribute the verdict form to you now because it may help you
18 to follow the instructions I'm about to give you.

19 You of course know that the plaintiff in this case,
20 Ms. Carroll, is suing Mr. Trump for money damages for injuries
21 she claims to have suffered as a result of the defamatory
22 statements that Mr. Trump made about her in the mid-1990s. As
23 you know, Ms. Carroll encountered Mr. Trump at the Bergdorf
24 Goodman department store in Manhattan where he sexually
25 assaulted her. Ms. Carroll's account of being sexually

01QQcar4

Rebuttal - Ms. Crowley

1 assaulted by Mr. Trump first was published on June 21, 2019.

2 On June 21 and June 22, Mr. Trump made the defamatory
3 statements at issue in this case where he publicly denied
4 knowing Ms. Carroll, denied sexually assaulting her, and
5 accused her of making up the assault for ulterior and improper
6 purposes.

7 As I instructed you at the beginning of this trial,
8 you are not to decide whether Mr. Trump in fact sexually
9 assaulted Ms. Carroll or whether Mr. Trump's June 21 and
10 June 22, 2019 statements about her were defamatory. You
11 certainly know by now that there have been prior proceedings
12 relating to those events, including a previous jury trial, and
13 the jury in that case - as well as other proceedings in this
14 court - already found that Mr. Trump is liable for sexually
15 assaulting Ms. Carroll and for defaming her in his June 21 and
16 22, 2019 statements. Specifically, the following facts
17 pertinent to this dispute already have been decided.

18 First, Mr. Trump sexually abused Ms. Carroll by
19 forcibly inserting his fingers into her vagina without her
20 consent.

21 Second, Ms. Carroll did not make up her claim of
22 forcible sexual abuse by Mr. Trump. Mr. Trump's June 21 and
23 22, 2019 statements were false.

24 Third, Mr. Trump knew when he made those two
25 statements that they were false, had serious doubts as to the

01QQcar4

Rebuttal - Ms. Crowley

1 truth of those statements, or made those statements with a high
2 degree of awareness that they probably were false.

3 Fourth, those two statements were defamatory. In
4 other words, his false statements tended to disparage
5 Ms. Carroll in the way of her business, office, profession or
6 trade, or they tended to expose her to hatred, contempt or
7 aversion, or they tended to induce an evil or an unsavory
8 opinion of her in the minds of a substantial number of people
9 in the community.

10 For your purposes, you must accept these points are
11 true no matter what else you heard in this trial. What remains
12 for you to decide are two very limited issues relating to
13 damages Mr. Trump owes Ms. Carroll for defaming her in the two
14 June 2019 statements I've identified. To be absolutely clear:
15 You will not be determining any damages that Ms. Carroll
16 suffered by reason of the forcible sexual assault itself. That
17 has been done already. Your focus will be entirely on damage
18 issues resulting from Mr. Trump's publication of the June 21
19 and 22, 2019 defamatory statements.

20 First, you must decide whether Ms. Carroll sustained
21 more than nominal damages by reason of those statements, and,
22 if she did, the amount of money damages that Mr. Trump must pay
23 Ms. Carroll to compensate her for the injury she suffered as a
24 result of those statements. These are called compensatory
25 damages.

01QQcar4

Rebuttal - Ms. Crowley

1 And at this moment I'm going to pause a minute. Andy
2 is going to give counsel a typewritten copy of my instructions.
3 Ladies and gentlemen, I should have said this at the beginning:
4 You will have them in writing in the jury room. You are
5 welcome to take notes or not to take notes. Everything I say
6 you will get in writing.

7 The second thing you must decide is whether Mr. Trump
8 should be required to pay Ms. Carroll punitive damages as well
9 as compensatory damages, and, if so, how much he should be
10 required to pay. Punitive damages are intended to punish a
11 defendant and to deter future defamatory statements.

12 I'm now going to discuss these remaining damages
13 issues in turn, with reference to the verdict form that you're
14 going to be using to decide the case.

15 A person who has been defamed is entitled to fair and
16 just compensation for the injury to her reputation and for any
17 humiliation and mental anguish in her public and private lives
18 that was caused by the defamatory statement in question.
19 Question 1 on the verdict form deals with such damages for
20 Mr. Trump's June 21 and 22, 2019 statements, which are in
21 evidence as Plaintiff's Exhibit 1 and 2, respectively.

22 For this question, you will award an amount that, in
23 the exercise of your good judgment and common sense, you decide
24 is fair and just compensation for the injury to Ms. Carroll's
25 reputation and the humiliation and mental anguish in her public

01QQcar4

Rebuttal - Ms. Crowley

1 and private lives which you decide was caused by Mr. Trump's
2 two statements to which I've already referred. In fixing that
3 amount, you should consider Ms. Carroll's standing in the
4 community, the nature of Mr. Trump's statements made about
5 her - the two statements in question - the extent to which
6 those statements were circulated, the tendency of those
7 statements to injure a person such as Ms. Carroll and all of
8 the other facts and circumstances of the case. Compensatory
9 damages can't be proved with mathematical accuracy. Fair
10 compensation may vary. It may range from one dollar, if you
11 decide that there was no injury at all, to a substantial sum if
12 you decide that the injury was substantial.

13 It is Ms. Carroll's burden to prove the nature and
14 extent of her damages and to prove that the damages were caused
15 by Mr. Trump's actions. You may award compensatory damages
16 only for those injuries that you find that Ms. Carroll has
17 proven by a preponderance of the evidence. We'll talk about
18 what that means later. Compensatory damages cannot be based on
19 speculation or sympathy. They must be based on the evidence
20 presented at trial and only on that evidence.

21 Further, you may not award compensatory damages more
22 than once for the same injury. For example, where a plaintiff
23 prevails on two claims and establishes that he or she is
24 entitled to \$100 in compensatory damages for one injury, the
25 plaintiff is not entitled to \$100 in compensatory damages also

01QQcar4

Rebuttal - Ms. Crowley

1 on the other claim but for the same injury. Of course, where
2 different injuries are attributed to the separate claims, a
3 person is entitled to be compensated fully for all of the
4 injuries.

5 Now, during her opening statement, Mr. Trump's
6 attorney asserted Ms. Carroll had a duty to mitigate or
7 minimize any damage that she suffered as a consequence of
8 Mr. Trump's statements in this case, the statements we're
9 concerned with. That statement was not correct. A person who
10 is defamed has no duty to mitigate or minimize any harm caused
11 to that person by the defamation. A person who defames a
12 plaintiff is liable to the plaintiff for all damages caused to
13 the plaintiff by the defamation.

14 In addition, the harm, if any, that Mr. Trump caused
15 to Ms. Carroll's reputation by his defamatory statements is not
16 mitigated or reduced or offset by any benefit to her reputation
17 that Mr. Trump may claim that his defamatory statements or
18 Ms. Carroll's allegations against him caused in some parts of
19 the community. You are not to consider any reputational
20 benefits, if any, in deciding on a damage award in this case.

21 Now, question 1 pertains to compensatory damages for
22 the two statements we're concerned with. And I've broken it
23 into two parts. The first part asks you whether Ms. Carroll
24 has proved by a preponderance of the evidence that she suffered
25 more than just nominal damages from Mr. Trump's June 21 and 22,

01QQcar4

Rebuttal - Ms. Crowley

1 2019 statements -- meaning that she was injured by those
2 statements in any of the respects that I've just described to
3 an extent warranting damages of more than a dollar. That is
4 the "yes" or "no" question. If the answer is "yes," you then
5 will fill in the amount you award for all defamation
6 compensatory damages attributable to the June 21 and 22
7 statements, excluding the reputation repair program that was
8 discussed during Professor Humphreys' testimony. And then you
9 will fill in the amount of damages, if any, that you award for
10 the reputation repair program for the June 21 and 22, 2019
11 statements in the second part of the first question.

12 On the other hand, if your answer to the first part of
13 question 1 is no; in other words, if you determine that
14 Ms. Carroll has not proved by a preponderance of the evidence
15 that she suffered more than nominal damages as a result of
16 Mr. Trump's June 21 and June 22 statements, then you will write
17 down \$1 on the second line of question 1, and you will leave
18 the third line blank.

19 Regardless of your answer to question 1, you will go
20 on to question 2.

21 In addition to seeking compensatory damages, which I
22 just covered in discussing question 1, Ms. Carroll asks also
23 that you award punitive damages. Punitive damages may be
24 awarded for defamation to punish a defendant who's acted
25 maliciously and to deter him and others from doing the same.

01QQcar4

Rebuttal - Ms. Crowley

1 A statement is made maliciously for purposes of questions 2 and
2 if it is made with a deliberate intent to injure or out of
3 hatred, ill will or spite, or in willful, wanton, or reckless
4 disregard of another's rights.

5 Question 2 pertains to Mr. Trump's malice, if any,
6 with respect to the June 21, 2019 statement. Question 3
7 pertains to Mr. Trump's malice, if any, with respect to the
8 June 22, 2019 statement. If you answer "yes" to either
9 question 2 or question 3, or both - that is, if you find that
10 Ms. Carroll has proved by a preponderance of the evidence that
11 Mr. Trump acted maliciously as I have just defined that term
12 for you, in making the June 21 or the June 227 statement about
13 Ms. Carroll - you will write down an amount, if any, that you
14 find Mr. Trump should pay to Ms. Carroll in punitive damages.
15 If you answer "no" to both question 2 and question 3 - that is,
16 if you find that Ms. Carroll has not proved by a preponderance
17 of the evidence that of Mr. Trump's June 21 or June 22, 2019
18 statements was made maliciously - you may not award punitive
19 damages.

20 Let me just pause for a moment.

21 All right. I will go on.

22 In arriving at your decision as to the amount of
23 punitive damages to award, should you decide to award any, you
24 should consider the following factors:

25 First, your view of the nature and reprehensibility of

01QQcar4

Rebuttal - Ms. Crowley

1 what Mr. Trump did. And here we're talking only about the
2 defamatory statements, not the sexual assault. Bear in mind
3 that would include the character of the wrongdoing and
4 Mr. Trump's awareness of what harm the conduct caused or was
5 likely to cause. In considering the amount of punitive
6 damages, you should weigh this factor heavily.

7 Second, any actual or potential harm you conclude was
8 caused or threatened by Mr. Trump's conduct.

9 Third, Mr. Trump's financial condition and the impact
10 that any punitive damages you may award will have on him.

11 Fourth, the amount, if any, that you consider
12 necessary to deter Mr. Trump from continuing to defame
13 Ms. Carroll and to punish his misbehavior. In that regard,
14 punitive damages may be considered expressive of the community
15 attitude towards one who willfully and wantonly causes hurt or
16 injury to another.

17 In arriving at your decision, you may consider
18 additionally the relevant circumstances of the making of the
19 June 21 and 22 statements, provided that they are not too
20 remote. This includes any subsequent statements that Mr. Trump
21 has made about Ms. Carroll, as well as any other circumstances,
22 that are in evidence and that indicate the existence of any ill
23 will or hostility between the parties.

24 For questions 2 and 3, you may take Mr. Trump's other
25 statements into consideration when determining whether he spoke

01QQcar4

Rebuttal - Ms. Crowley

1 maliciously when he made the June 21 and 22, 2019 statements,
2 as well as determining the amount of punitive damages, if any,
3 that you decide to award insofar as any previous or subsequent
4 conduct by Mr. Trump, in your view, bears on the size of an
5 award necessary to deter him from making defamatory statements
6 about Ms. Carroll in the future.

7 The amount of punitive damages that you award, if any,
8 must be both reasonable and proportionate to the actual and
9 potential harm suffered by the plaintiff and to the
10 compensatory damages, if any, that you awarded the plaintiff.

11 Obviously from what I've said already, regardless of
12 how you answer question 2, you will answer question 3 and
13 otherwise follow my instructions. The instructions I gave you
14 on question 2 apply also to question 3.

15 Now, those are my instructions on the law. I will now
16 talk to you about the trial process.

17 I'm going to begin with the burden of proof.

18 Ms. Carroll, as I said, has the burden of proving her
19 damages by a preponderance of the evidence. As I told you at
20 the outset, proof beyond a reasonable doubt, which is the
21 proper standard of proof in a criminal trial, does not apply to
22 a civil case such as this. You should put it out of your mind.
23 To establish something by a preponderance of the evidence means
24 to prove that the contention of the party with the burden of
25 proof on that question is more likely true than not true. In

01QQcar4

Rebuttal - Ms. Crowley

1 other words, a preponderance of the evidence means that the
2 party who has the burden of proof on a particular question –
3 and in this case, Ms. Carroll has the burden on all of the
4 questions – has demonstrated that the odds of that party being
5 right are more than 50-50, even if only by a tiny amount. It
6 refers to the quality and the persuasiveness of the evidence,
7 not to the number of witnesses or documents. In determining
8 whether a claim has been proved by a preponderance of the
9 evidence, you may consider the relevant testimony of all
10 witnesses regardless of which party may have called them, and
11 all the relevant exhibits received in evidence regardless of
12 which party may have produced them.

13 If, after considering all of the evidence, you find
14 that the evidence of both parties is exactly in balance; in
15 other words, that the chances of the plaintiff's contention or
16 the defendant's contention being correct with respect to any
17 question that I've put to you are exactly equal, then
18 Ms. Carroll will have failed to sustain her burden of proof on
19 that question, and you must find for the defendant on that
20 issue. On the other hand, if Ms. Carroll has persuaded you on
21 a particular question that her contention is more likely
22 correct than the chances that her opponent is right, even if
23 only by a little, then you must find for her on that particular
24 question.

25 Now, folks, you are the sole and the exclusive judges

01QQcar4

Rebuttal - Ms. Crowley

1 of the facts. I certainly do not mean to indicate any opinion
2 as to the facts or as to what your verdict should be. The
3 rulings I made during the trial are no indication of any views
4 on my part of what you ought to do or who should prevail here.
5 I express no opinion as to how you should decide any of the
6 issues before you.

7 Now, as I've told you, it is my duty to instruct you
8 as to the law, and it is your duty to accept my instructions on
9 the law and apply them to the facts as you determine the facts
10 to be. You are to draw no inferences from the fact that I may
11 have asked questions of some of the witnesses and made comments
12 to counsel about the manner in which they made their
13 presentations. I did that to bring out the evidence more
14 quickly, to save time, and to ensure that the trial was
15 conducted properly. I did not intend to suggest any view
16 concerning the credibility of any witness or as to which side
17 should prevail here, and you must not take my comments or
18 questions as having done so. Nor should you consider the fact
19 that from time to time I was taking notes and from time to time
20 was using my computer. Whatever I may have noted, whatever use
21 I was making of the computer here on the bench may have had
22 nothing at all to do with what you are concerned with. You are
23 to decide the case fairly and impartially based solely on the
24 evidence and my instructions.

25 We now get to the question of your evaluation of the

01QQcar4

Rebuttal - Ms. Crowley

1 evidence. The evidence in this case, of course, is the sworn
2 testimony of the witnesses, the exhibits received in evidence,
3 and any stipulations between counsel. Stipulations is just a
4 fancy word for agreements as to facts.

5 What is not evidence, however, are questions,
6 arguments, and objections by lawyers. Nor is any witness
7 testimony that I struck or told you to disregard to be
8 considered in any way.

9 In deciding this case, I remind you that you are
10 obliged to consider only the evidence you have seen and heard
11 in this courtroom. Anything that you may have learned
12 elsewhere that could conceivably have any bearing on this case
13 must be disregarded.

14 Now, you've heard some evidence and argument during
15 this trial concerning whether Ms. Carroll deleted some emails
16 or tweets containing death threats from her computer, as well
17 as some mention by defense counsel that she was issued a
18 subpoena in this case. The question of whether Ms. Carroll's
19 conduct implicated any legal duty is entirely for the Court to
20 decide, not for the jury. I do instruct you, however, that
21 Ms. Carroll had no legal obligation to preserve anything before
22 she reasonably anticipated litigation. Beyond that, whether
23 her conduct implicated any legal duty is not your concern. You
24 are entitled to consider exactly what materials, if any,
25 Ms. Carroll disposed of, why and when she did so, and whether

01QQcar4

Rebuttal - Ms. Crowley

1 those materials and her testimony affect the question of
2 damages before you.

3 You may have heard argument or evidence suggesting
4 that Ms. Carroll - by revealing in June 2019 that Mr. Trump
5 sexually assaulted her or claiming that he did so - assumed the
6 risk that he would respond with defamatory statements,
7 consented to such statements, or authorized Mr. Trump to make
8 such statements as a form of self-defense. I instruct you as a
9 matter of law that Ms. Carroll did not consent to Mr. Trump's
10 defamatory statements, or otherwise grant him lawful permission
11 to defame her, by publicly stating in June 2019 that he had
12 sexually assaulted her.

13 As I have instructed you, it already has been
14 established that Mr. Trump's statements were false and
15 defamatory, and the only questions for you concern what harm,
16 if any, Mr. Trump's statements caused Ms. Carroll, and if they
17 did cause her harm, what damages Mr. Trump must pay.

18 Now, I've covered instructions for certain specific
19 evidence, and I'm now going to give you instructions with
20 respect to evidence more generally. There are two types of
21 evidence that you properly may use in coming to your verdict.

22 One type of evidence is direct evidence. Direct
23 evidence is when a witness testifies about something that the
24 witness knows by virtue of having perceived it with his or her
25 own senses; in other words, something the witness, saw, felt,

01QQcar4

Rebuttal - Ms. Crowley

1 touched, heard, and in one case I tried last year, tasted,
2 believe it or not.

3 Direct evidence can also be in the form of an exhibit.
4 Imagine we were trying a case and the question at issue in the
5 case involved an exhibit - this transcript volume I'm holding
6 up - and the question somehow it mattered was what color it's
7 bound in. Well, it's an exhibit. You can see it. You can
8 tell whether it's red or green or chartreuse. That's direct
9 evidence, and also an exhibit you can perceive with your own
10 senses.

11 The other kind of evidence is called circumstantial
12 evidence. That's a term that whatever occurs in movies and on
13 television is simply evidence that tends to prove some disputed
14 fact by proving another fact. The example that is typically
15 given in this courthouse is that imagine for the sake of
16 argument this had been a sun shiny morning when you walked in.
17 Imagine the drapes are all closed. You can't see the weather
18 outside. It suddenly became relevant to determine what the
19 weather was outside, and if people started walking in through
20 those doors with wet umbrellas and raincoats, you could look at
21 the wet umbrellas and raincoats. That would be circumstantial
22 evidence that it might be raining outside. It's the process of
23 reasoning from one fact to another, and the takeaway here is
24 that circumstantial evidence is of no less value than direct
25 evidence. It's a general rule that the law makes no

01QQcar4

Rebuttal - Ms. Crowley

1 distinction between direct and circumstantial evidence. It
2 simply requires that your verdict must be based on a
3 preponderance of all of the evidence presented.

4 Now, some of the testimony before you is in the form
5 of one or more excerpts from videotaped depositions that were
6 received in evidence. A deposition is simply a procedure where
7 before a trial the parties may question a witness or an
8 adversary party or a witness before a court stenographer. You
9 may consider the testimony of a witness given at a deposition -
10 which is given under oath - according to the same standards you
11 would use to evaluate the testimony of a witness if given live
12 at trial. It occurs to me also that I believe you either heard
13 or saw, heard, read or saw, some testimony given in another
14 court trial. If that memory is accurate, everything I've said
15 about your consideration of deposition testimony applies to
16 that as well.

17 There were times during the course of the trial where
18 counsel on each side had marked for identification and showed
19 to you visual aids that we lawyers and judges call
20 demonstratives. They were shown to you to help you understand
21 the evidence as it came in. They are not themselves evidence.
22 They were used only as a matter of convenience and illustration
23 so you should consider them accordingly.

24 Now, you've had the opportunity to observe the
25 witnesses, and it is, of course, up to you, and you alone, to

01QQcar4

Rebuttal - Ms. Crowley

1 decide how believable each witness was in the witness's
2 testimony in this case subject to the facts that you're
3 required to accept as true the four statements that I read to
4 you earlier, and that you will find also in the typewritten
5 transcript, and that I need not now repeat.

6 You are the sole judges of the credibility of each
7 witness and of the importance of each witness's testimony. In
8 deciding the weight to give to the testimony of a witness, you
9 should use all of the tests for truthfulness that you would use
10 in determining matters of importance to you in your everyday
11 life.

12 Your decision about whether or not to believe a
13 witness may depend on how that witness impressed you. You
14 watched them all testify. Everything a witness did or said on
15 the witness stand or in the deposition or other sworn
16 testimony, the excerpts you saw, counts in your determination.
17 Did the witness appear to be frank, forthright and candid? Or
18 did the witness answer questions on direct examination in a
19 responsive and forthcoming manner but answer questions on
20 cross-examination evasively or unresponsively? You should
21 consider the opportunity the witness had to see, to hear, and
22 to know the things about which the witness testified, the
23 accuracy of the witness's memory, the reasonableness and
24 probability of the witness's testimony and its consistency or
25 lack of consistency, and its corroboration or lack of

01QQcar4

Rebuttal - Ms. Crowley

1 corroboration with other credible testimony.

2 In evaluating a witness's credibility, you should use
3 your common sense, your good judgment, and your own life
4 experience. Further, you are to perform the duty of evaluating
5 witnesses without bias or prejudice as to any party, and you
6 are to perform that duty with an attitude of complete fairness
7 and impartiality.

8 Finally, should you, in the course of your
9 deliberations, conclude any witness has intentionally testified
10 falsely as to a material fact during the trial, you are at
11 liberty to disregard all of that witness's testimony on the
12 principle that one who testifies falsely as to one material
13 fact may also testify falsely as to others. But credibility
14 isn't necessarily an all-or-nothing proposition. You may
15 accept so much of a witness's testimony as you believe is true
16 and accurate and reject only such parts, if any, that you
17 conclude are false or inaccurate.

18 Now you've also heard during the course of this trial
19 testimony from an expert witness; namely, Professor Humphreys.
20 An expert witness is a person who, by education and experience,
21 has become expert in some art, science, profession or calling.
22 Under the rules of evidence, expert witnesses are entitled to
23 state their opinions as to matters in which they profess to be
24 experts and may also explain the reasons for their opinions.
25 The purpose of expert testimony is to assist you in

01QQcar4

Rebuttal - Ms. Crowley

1 understanding the evidence and coming to an independent
2 decision.

3 In weighing an expert's testimony, you may consider
4 the expert's qualifications, her opinions, the bases for the
5 expert's opinions, and all of the other considerations I've
6 just described to you in evaluating the witness's credibility.
7 You may give the expert testimony whatever weight, if any, you
8 find it deserves in light of all of the evidence in this case.

9 You should not accept the expert's testimony just
10 because she's an expert. Even with an expert witness, you
11 should use your common sense, your good judgment, and your own
12 life experience.

13 You may give the expert's testimony as much weight, if
14 any, as you think it deserves in light of all the evidence.
15 You also may reject the testimony of an expert witness in whole
16 or in part if you conclude that the reasons given in support of
17 the opinion or the testimony are unsound or if you for other
18 reasons don't believe the expert witness.

19 Now, as you know, this case has attracted a great deal
20 of media attention. Until a verdict is released and you are
21 discharged, you must continue to insulate yourself from all
22 information about this case, except what has come to you in
23 this courtroom. That means no reading, watching or listening
24 to media coverage or commentary about the case or comments from
25 anyone else, including your friends and loved ones, in the

01QQcar4

Rebuttal - Ms. Crowley

1 event you see them before this is a result until this case.

2 You are to be sealed off from other information entirely. And
3 if anything happens that results in some exposure of any juror
4 to some outside source, you're obliged to report it to the
5 Court.

6 This is the point where I am just going to stand up
7 and stretch for a minute. Andy, do you have the other
8 microphone?

9 DEPUTY CLERK: Yes, Judge.

10 THE COURT: As I say, I'm standing up to stretch my
11 back, that's it.

12 You are going to retire in just a few minutes. I have
13 to just change my glasses to do this.

14 You are going to retire to consider your verdict in
15 just a few minutes. It's your duty as jurors to consult with
16 each other and deliberate with the goal of coming to an
17 agreement. Each of you must decide for yourself the answers to
18 the questions that I put to you, but you should do so only
19 after considering the case with your fellow jurors, and you
20 shouldn't hesitate to change your opinion if you are convinced
21 that it is mistaken. Your answers to every question must be
22 unanimous, but you are not required to give up your honest
23 convictions concerning the effect or weight of the evidence
24 merely for the purpose of returning a verdict or solely because
25 of the opinion of other jurors. Discuss and weigh your

01QQcar4

Rebuttal - Ms. Crowley

1 respective opinions dispassionately, without regard to
2 sympathy, without regard to prejudice or favor for either
3 party, and come to the conclusion that in your good conscience
4 appears to be in accordance with the truth.

5 A word about your notes. The notes you may have taken
6 during this trial are for your personal use only. You each may
7 consult your own notes during deliberations, but any notes that
8 you may have taken are not to be relied upon during
9 deliberations as a substitute for the collective memory of all
10 of you. Your notes should be used as memory aids, but they
11 should not be given precedence over your independent
12 recollection of the evidence. If you didn't take notes, you
13 should rely on your own recollection, your own independent
14 recollection, of the proceedings, and you shouldn't be
15 influenced by other people's notes. I emphasize that the notes
16 are entitled to no greater weight than the recollection or
17 impression of each of you as to what the testimony may have
18 been.

19 Again, each of you is to make your own decision about
20 the proper answer to each question based on your consideration
21 of the evidence and your discussions with your fellow jurors.
22 No one should surrender his or her conscientious beliefs solely
23 for the purpose of reaching a unanimous verdict.

24 Now, you are going to have the typewritten
25 instructions that I am now reading to you. It may take a few

01QQcar4

Rebuttal - Ms. Crowley

1 moments to get them into the jury room to you. The printed
2 copy that you will receive contains a variety of legal
3 citations which appear in brackets beneath the various things
4 I've read to you. I have not read you the legal citations.
5 Those are there for my personal use and for the lawyers' aid.
6 They are essentially my audit trail and the lawyers' audit
7 trail of the legal authority for what I am telling you.

8 I have instructed you on the principles of law that
9 apply to this case, and you must apply them in the manner that
10 I've explained them to you here and now, and you should ignore
11 the citations. They will probably be seeming to you to be in a
12 foreign language anyway. And I will describe in a moment what
13 you should do if you need any further instruction on the law.

14 You are not to discuss the case unless all of you are
15 present. Four or five of you together is only a gathering of
16 individuals; it's not a jury. The jury is all of you. When
17 you retire, you will select one member of the jury as a
18 foreperson. That person will preside over your deliberations
19 and speak for you here in court.

20 The foreperson will send out any notes - and I will
21 get to that in a second - and when the jury has reached a
22 verdict, you'll notify the Officer in whose custody you will be
23 that a verdict has been reached.

24 Now, as you've seen, the verdict form that each of you
25 has consists of questions concerning the issues in this case,

01QQcar4

Rebuttal - Ms. Crowley

1 the important issues in this case. As I've explained, your
2 answer to one question will determine whether and how you
3 answer a subsequent question in certain cases, and the verdict
4 form indicates how you should proceed through the form. You
5 will follow those instructions because you should answer every
6 question except where the verdict form indicates "don't answer
7 it." I think there's one place where it does that, but however
8 many it is, you have it there.

9 Whatever you do, just answer the questions. I tell
10 you from experience, you are not to add any commentary
11 anywhere. No extraneous remarks or comments. If that happens,
12 it will only waste time.

13 Once you have reached a unanimous decision, you will
14 record your answers on one copy of the verdict form. The
15 foreperson will fill it out, then each juror will write his or
16 her juror number – not your seat number, but your juror number;
17 not the seat you're in, not that number, your juror number – at
18 the bottom of it, not your name, and advise the Officer that a
19 verdict has been reached. Don't give the verdict form to the
20 Officer. The foreperson should place it in an envelope and
21 bring it with him or her to the courtroom when you return. I
22 will ask for it. I stress that each of you should be in
23 agreement with the verdict that is announced in court. Once
24 your verdict is announced by the foreperson in open court and
25 officially recorded, it ordinarily can't be revoked.

01QQcar4

Rebuttal - Ms. Crowley

1 Now, if during your deliberations you want me to
2 discuss further any of the instructions on the law that I've
3 given you, the foreperson should send out a note with the
4 Officer in a sealed envelope explaining your question, and if
5 you want to have testimony read back or submitted to you, tell
6 us what it is you want to hear or have read back. We can read
7 back testimony to you or sometimes submit it to you in writing.
8 I ask you to ask for a readback or a submission of the
9 testimony only once you've exhausted your recollection and you
10 are convinced that you actually need it. If you do, by all
11 means, we will get it for you.

12 If you do need it, the procedure is that the
13 foreperson will send in a note telling me exactly what you
14 want, what you need with as much specificity as you can give
15 us: Who the witness was, whether it was direct, cross, what
16 the subject was and so on. Because the procedure that we then
17 follow is I share the request with counsel - and this applies
18 also to notes with questions about the instructions - we all
19 have to understand what you mean because they have a right to
20 comment about what the answer ought to be, or what should be
21 read back. Once it is resolved what you will receive either by
22 way of answer to questions or by readback or testimony going
23 in, we have to pull that together, and that sometimes is almost
24 instantaneous and sometimes it takes time.

25 (Continued on next page)

01Q5car5

Charge

1 THE COURT: If you do communicate with the Court
2 before reaching a verdict, you must never indicate to the Court
3 how you are divided, in other words where the vote stands, if
4 it is that kind of a circumstance, unless I specifically ask
5 you to tell me.

6 Now, you are reminded, folks, you took an oath to
7 render judgment impartially and fairly, without prejudice,
8 sympathy or fear, based solely on the evidence in this case and
9 the applicable law. And I want to elaborate for a minute about
10 your role under that oath.

11 First of all, as I have said more than once, you must
12 accept as true the facts that I explained to you must be
13 accepted as true because they have already been decided. You
14 may not properly question those facts.

15 In all other respects, you, as jurors, are the judges
16 of the facts. I just want to remind you again that nothing I
17 have said or done should be taken by you as indicating any view
18 on my part about what your conclusion should be about the facts
19 and about what, if any damages, Ms. Carroll is entitled to.
20 But, in determining those damages, that is, in coming to your
21 decision on the facts, you must follow the rules of law that I
22 have given you. You may not disregard or question any rule I
23 have stated to you. You must not substitute or follow your own
24 notion or opinion as to what the law is or ought to be. It is
25 your job to apply the law as I have explained it to you,

01Q5car5

Charge

1 regardless of the consequences and that applies to all of the
2 law I am giving you.

3 Now, folks, jury service is a duty of citizenship. We
4 all know that. It is also a privilege. The jury system is the
5 bedrock of our justice system. Indeed, the right to trial by
6 jury is enshrined in two separate amendments to the
7 Constitution of the United States. Everything we have done
8 here these past two weeks has been to enable you to decide this
9 case fairly.

10 The jury embodies what is perhaps the most fundamental
11 idea of our nation that we, the people, created it and we, the
12 people, govern it. Indeed, the Constitution begins with these
13 words:

14 We the People of the United States, in order to form a
15 more perfect Union, establish justice, insure domestic
16 tranquility, provide for the common defense, promote the
17 general welfare, and secure the blessings of liberty to
18 ourselves and our posterity, do hereby ordain and establish
19 this Constitution for the United States of the America.

20 We the People. You, ladies and gentlemen, you stand
21 in for all of the people and it is to you that is committed a
22 vital role in our constitutional system and that role dates
23 back to the earliest days of our nation. The Constitution
24 vests the judicial power of the United States in one Supreme
25 Court and in those other courts that Congress sees fit to

01Q5car5

Charge

1 establish. This is one of those courts. This court, in fact,
2 has been functioning since 1789. It was the very first United
3 States Court to hold session under the Constitution. It did so
4 even before the first session of the United States Supreme
5 Court. And, as jurors, you are temporarily part of this Court.

6 Since those earliest days in our nation's history --
7 through wars, through economic depressions, through
8 pandemics -- jurors like you have been asked to decide cases
9 and your role is just the same as the role of the countless
10 jurors before you. You will be entirely fair and impartial to
11 both sides. You will decide the case only on the evidence
12 before you. You will decide the case on the basis of my
13 instructions on the law. This is an important task, folks,
14 doing justice fairly and impartially. I am confident that you
15 will do that with the utmost care.

16 Now, please remain seated. If there are any
17 objections to the charge, as delivered, on which I have not
18 previously ruled during the charge conference, counsel should
19 come to the side bar.

20 (Continued next page)

01Q5car5

Charge

1 (At side bar)

2 THE COURT: OK. We will start with the plaintiff.

3 MS. CROWLEY: Judge, page 11. Starting on page 11,
4 line 22. It says --

5 THE COURT: I have to get there.

6 MS. CROWLEY: I apologize.

7 THE COURT: OK. What is the objection?

8 MS. CROWLEY: I believe there is a "not".

9 MS. HABBA: No, I thought so and I checked it. He was
10 right, the Judge was right. I did the same thing.11 THE COURT: I'm sorry. Somebody should tell me what
12 you are talking about.13 MS. CROWLEY: I apologize, Judge. It starts on
14 page 11, line 22.

15 THE COURT: All right.

16 MS. CROWLEY: I instruct you, as a matter of law, that
17 Ms. Carroll did not consent to Mr. Trump's defamatory
18 statements or otherwise.19 THE COURT: Slow. OK. Did not consent or
20 otherwise -- yes, go ahead.21 MS. CROWLEY: -- grant him lawful permission to defame
22 her by publicly stating, in June 2019... I think it should say
23 that he had not sexually assaulted her.24 THE COURT: Thank you for that correction. I will
25 delineate it.

01Q5car5

Charge

1 MS. KAPLAN: One other very little one, your Honor.

2 On page 13 at the top when you made a statement about the NYAG
3 video that was shown.

4 THE COURT: Just one more second. When I read from
5 page 11 into page 12, did I include the "not" in what I read or
6 not?

7 MS. HABBA: No.

8 THE COURT: I did not. OK. So I will. OK. Next?

9 MS. KAPLAN: On page 13 you added detail about the
10 fact that one of the videos they saw was the NYAG case and you
11 said "court trial". I don't think it is that big a deal, they
12 had seen a deposition.

13 THE COURT: Anybody care?

14 MS. HABBA: No.

15 MS. KAPLAN: I don't care. I just wanted to raise it.

16 MS. CROWLEY: That's it for us.

17 THE COURT: Ms. Habba?

18 MS. HABBA: I would just renew all of our objections
19 from yesterday, your Honor.

20 THE COURT: OK. Fine.

21 So what I propose to do, rather than -- I will reread
22 the sentence at the bottom of 11 and 12, and we will simply
23 make new Xerox copies to go into the jury room and for you, and
24 we will do it with just the handwritten delineation.

25 THE COURT: OK.

01Q5car5

Charge

1 MS. HABBA: Thank you, your Honor.

2 THE COURT: Thank you, both.

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

01Q5car5

Charge

1 (In open court)

2 THE COURT: I'm human. I left one word out. One
3 word.4 When I was talking about whether Ms. Carroll, by
5 revealing that Mr. Trump had sexually assaulted her, assumed
6 the risk or consented to the defendant's statements, the next
7 sentence should have been read as: I instruct you, as a matter
8 of law, that Ms. Carroll did not consent to Mr. Trump's
9 defamatory statements or otherwise grant him lawful permission
10 to defame her by publicly stating, in June 2019, that he had
11 not sexually assaulted her.12 I left the word "not" out the second time and the
13 correct one has the word "not" in it. So you will find the
14 word "not" written in, by hand, to the copy sent in to the jury
15 room.16 Now, I did neglect to mention that the exhibits that
17 are in evidence will be sent in to the jury room. That always
18 takes a little bit of time.19 A little bit also about schedule. I normally require
20 counsel to remain in or in the immediate environs of the
21 courtroom so that if there is a note or a verdict, or a
22 read-back request, we can deal with it quickly rather than
23 having to find them. The exception is going to be that your
24 lunch is waiting for you, their lunch I have no idea. So, it
25 is now 1:40, and for the first 45 minutes you are back there

01Q5car5

Deliberations

1 they're free to go get lunch and during that period we won't
2 take any verdict or answer any notes.

3 OK. Andy, have I missed anything?

4 THE DEPUTY CLERK: Just swearing in the marshal.

5 THE COURT: OK. Swear in the marshal, the officer.

6 THE DEPUTY CLERK: Officer, please raise your right
7 hand.

8 (Marshal sworn)

9 THE COURT: One second. One other thing, which is how
10 long we are sitting. This should not be taken as an indication
11 about how quickly or how much time you should take, absolutely
12 not, but we will, if you haven't reached a decision by 4:30, we
13 will break at 4:30. Or, if you send me a note in advance that
14 you want to stay somewhat later, we will stay somewhat later
15 but we won't stay into the late night, certainly. And if there
16 is not a verdict today, we will resume Monday. You should
17 understand that.

18 (Jury retired to deliberate; time noted: 1:43 p.m.)

19 THE COURT: So far as the exhibits are concerned, the
20 usual practice is that counsel go over the exhibits with Andy
21 and agree on what is to go into the jury room and Andy takes
22 them in. Is there any objection to proceeding that way?

23 MS. KAPLAN: No, your Honor.

24 MR. MADAIO: No, your Honor.

25 THE COURT: And what about the video evidence?

01Q5car5

Verdict

1 MR. CRAIG: Your Honor, as Andy requested, we have a
2 laptop for the jury, we will show it to opposing counsel, and
3 we have a thumb drive with the exhibits on there that are the
4 exhibits.

5 THE COURT: Acceptable, Mr. Madaio?

6 MR. MADAIO: Yes, your Honor.

7 THE COURT: OK. Then that will be that. Anything
8 else we have to do before we go off and have lunch?

9 MS. KAPLAN: Not for plaintiff, your Honor.

10 THE COURT: Ms. Habba?

11 MS. HABBA: No, your Honor.

12 THE COURT: OK. Thank you.

13 (Recess pending verdict)

14 THE COURT: I am advised that the jury has reached a
15 verdict. We will have no outbursts and will maintain entire
16 decorum during these proceedings.

17 Bring in the jury.

18 (Jury present)

19 THE COURT: Ladies and gentlemen. I understand you
20 have reached a verdict. Who is the foreperson? Is that
21 correct?

22 THE FOREPERSON: It is.

23 THE COURT: Please hand the verdict to Andy.

24 The clerk will read the verdict.

25 (The Court and Deputy confer)

01Q5car5

Verdict

1 THE COURT: Madam foreperson, does the "M" that
2 appears next to various numbers mean -- what does it mean?

3 THE FOREPERSON: Million.

4 THE COURT: Thank you.

5 THE DEPUTY CLERK: Did Ms. Carroll prove, by a
6 preponderance of the evidence, that:

7 1. Ms. Carroll suffered more than nominal damages as
8 a result of Mr. Trump's publication of the June 21 and June 22,
9 2019 statements? Answer: Yes.

10 Compensatory damages: You award, other than for the
11 reputation repair program, \$7.3 million.

12 Compensatory damages: You award, for the reputational
13 repair program only, \$11 million.

14 Question 2. In making the June 21, 2019 statement,
15 Mr. Trump acted maliciously, out of hatred, ill will or spite,
16 vindictively, or in wanton, reckless, or willful disregard of
17 Ms. Carroll's rights? Answer: Yes.

18 3. In making the June 22, 2019 statement, Mr. Trump
19 acted maliciously, out of hatred, ill will or spite,
20 vindictively, or in wanton, reckless, or willful disregard of
21 Ms. Carroll's rights? Answer: Yes.

22 How much, if any, should Mr. Trump pay to Ms. Carroll
23 in punitive damages? \$65 million.

24 THE COURT: Is there a request for a poll?

25 MS. HABBA: Yes.

01Q5car5

Verdict

1 THE COURT: Poll the jury, please.

2 THE DEPUTY CLERK: Juror no. 1, is that your verdict?

3 SEAT NO. 1: Yes.

4 THE DEPUTY CLERK: Juror no. 2, is that your verdict?

5 SEAT NO. 2: Yes.

6 THE DEPUTY CLERK: I'm sorry?

7 SEAT NO. 2: Yes.

8 THE COURT: Thank you.

9 THE DEPUTY CLERK: We are referring seat numbers?

10 THE COURT: We are referring to seat numbers, yes.

11 THE DEPUTY CLERK: Seat no. 3, is that your verdict?

12 SEAT NO. 3: Yes.

13 THE DEPUTY CLERK: Seat no. 4, is that your verdict?

14 SEAT NO. 4: Yes.

15 THE DEPUTY CLERK: Seat no. 5, is that your verdict?

16 SEAT NO. 5: Yes.

17 THE DEPUTY CLERK: Seat no. 6, is that your verdict?

18 SEAT NO. 6: Yes.

19 THE DEPUTY CLERK: Seat no. 7, is that your verdict?

20 SEAT NO. 7: Yes.

21 THE DEPUTY CLERK: Seat no. 8, is that your verdict?

22 SEAT NO. 8: Yes.

23 THE DEPUTY CLERK: Seat no. 9, is that your verdict?

24 SEAT NO. 9: Yes.

25 THE DEPUTY CLERK: Verdict unanimous, your Honor.

01Q5car5

Verdict

1 THE COURT: Thank you.

2 Is there any reason why the verdict should not be
3 recorded and the jury discharged? Ms. Habba?

4 MS. HABBA: No, your Honor.

5 THE COURT: The verdict will be recorded, and in due
6 course, judgment will enter.

7 Members of the jury: There was, years ago, an
8 extraordinarily respected judge of this court who made it a
9 practice never to thank a jury. And his theory -- Judge
10 Weinfeld's was -- was that it is a duty and a privilege of
11 being a citizen of this great country. I agree with him about
12 most things but I don't agree with him about that. I believe
13 juries are entitled to the thanks of all of us every time they
14 do their job.

15 I will not comment on the verdict you have reached, I
16 never do, but it has been clear to me from the beginning that
17 you paid attention, you worked, you decided this case fairly
18 and impartially and on the basis of the record and the law that
19 you were given. That is all we can ask.

20 In just a few minutes you are going to be discharged.
21 You will be free of my order to keep your identities secret.
22 As individuals, if you want to tell somebody that you served on
23 this jury, you may. I order you not to disclose the identity
24 of any other juror on this jury. Those of you who wish it are
25 entitled to maintain your privacy.

01Q5car5

Verdict

My advice to you is that you never disclose that you were on this jury. And I won't say anything more about it.

In a minute you will be free to go, you will go back into the jury room, you will collect your effects. The transportation arrangements are in place and you may leave. Whatever notes there may be, leave them in the jury room, they will be dealt with appropriately.

Again, thank you, and you may leave. Enjoy the weekend.

(Jury discharged)

THE COURT: Please, be seated.

Is there any other business we need to attend to, counsel? Ms. Kaplan?

MS. KAPLAN: Nothing further, your Honor.

THE COURT: Ms. Habba?

MS. HABBA: No, your Honor. I would just like to thank the court staff.

THE COURT: You are welcome on every count.

OK. We are adjourned.

○○○